EDITOR'S NOTE

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87 884

No.

Supreme Court, U.S.
FILED
NOV 30 1987
JOSEPH F. SPANIOL, JR.
CLERK

IN THE
Supreme Court of the United States
OCTOBER TERM 1987

LOUELLA F. BENSON,
Petitioner,

v.

Glenn A. Ally, PhD
E.J.Faul
Faul Energy Company
Nellie C. Faul
Almee Melody Faul
Grace Izena Kidder
Melvin Kidder
Lois F. Bearb, individually
Lois F. Bearb, as
executrix of the state of Forest Bearb
Malcolm Bearb
Leslie Faul
William C. Gibson,
Respondents.

APPENDIX TO PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

By: Louella F. Benson, *pro se*
6432 Montrose Street
Alexandria, Va. 22312
(703) 256-7595

Castillo Press, Inc. — 1717 K Street, NW, Washington DC 20036 — 223-1220

224

Although the High Court had given me until Jan. 21, 1987 to file my Petition for Writ of Certiorari in subject cases. the Mandate would have been issued by Fifth Circuit after Dec. 1, and it was important to me to stay the Mandate since the case was reversed in part. Thus, it was necessary for the printers to rush to meet the deadline, and which they were kind enough to do, but which resulted in a number of errors which had to be corrected to conform with my submittals to them and documents in record. The printers had to get additional help who worked late at night and during the week-end. In view of the nature of the case it is important that I make this known to the Court as to corrections in both the Writ and the Appendix.

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APPENDIX

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

FILED
NOV. 10. 1987
GILBERT F. GANUCHEAU, CLERK

No. 86-4797, 86-4798

LOUELLA F. BENSON,

Plaintiff-Appellant,

versus

GLENN A. ALLY, PHD., and
PAUL ENERGY CO.,

Defendants-Appellees.

Appeals from the United States District Court for the Western District of Louisiana

---

ORDER:

☐ The motion of _____
for ☐ stay ☐ recall and stay of the issuance of the mandate pending petition for writ of certiorari is DENIED.

☐ The motion of _____
for ☐ stay ☐ recall and stay of the issuance of the mandate pending petition for writ of certiorari is GRANTED to and including _____, the stay to continue in force until the final disposition of the case by the Supreme Court, provided that within the period above mentioned there shall be filed with

the Clerk of this Court the certificate of the Clerk of the Supreme Court that the certiorari petition has been filed. The Clerk shall issue the mandate upon the filing of a copy of an order of the Supreme Court denying the writ, or upon the expiration of the stay granted herein, unless the above mentioned certificate shall be filed with the Clerk of this Court within that time.

The motion of APPELLANT for a further stay of the issuance of the mandate is GRANTED to and including DECEMBER 1, 1987, under the same conditions as set forth in the preceding paragraph.

☐ The motion of APPELLANT for a further stay of the issuance of the mandate is DENIED.

/s/ Williams
United States Circuit Judge

U.S. DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
FILED
JUL 11 1986
ROBERT H. SHEMWELL, CLKER
BY JP
DEPUTY

United States Court of Appeals
FIFTH CIRCUIT
OFFICE OF THE CLERK
October 8, 1987

Ms. Louella F. Benson
6432 Montrose Street
Alexandria, VA 22312

No. 86-4797 - BENSON vs ALLY, *Et. Al*
& 86-4798
(DC No. CV86-0489)
MANDATE STAYED TO AND INCLUDING
NOVEMBER 7, 1987

This Court has this day granted a stay of the insurance of the mandate to the date as shown above. If during the period of the stay there is filed with this office a notice from the Clerk of the Supreme Court that the party who has obtained the stay has filed a petition for the writ in that court, the stay shall continue until final disposition by the Supreme Court denying the petition of writ of certiorari, the mandate shall issue immedidately under Rule 41, FRAP.

Under revised Rule 19.1 of the Supreme Court, effective June 30, 1980, a request to certify the record prior to action by the Supreme Court on the position for certiorari whould *not* be made as a matter of course but only when the record is deemed essential to a proper understanding of the case by that court.

A copy of the opinion, judgment, or Rule 47.6 Decision, and denial of rehearing are still required by by the Supreme Court to be incorporate as an appendix to your petition. Enclosed

are copies of the said documents which have been entered in this cause.

Very truly
Gilbert F. Ganucheau, Clerk

By: _____
Deputy Clerk

Enclosures

cc: Mr. Charles Brandt
Mr. Homer Ed Barousse, Jr.

IN THE
United States Court Of Appeals
FOR THE FIFTH CIRCUIT

Nos. 86-4797 and 86-4798

Summary Calendar

LOUELLA F. BENSON,

Plantiff-Appellant,

versus

GLENN A. ALLY, *Et. Al,*

Defendants-Appellees,

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA
(CV-86-0489-L)

(August 27, 1987)

Before POLITZ, WILLIAMS and JONES, Circuit Judges.

PER CURIAM:*

This litigation consists of two consolidated cases involving a bitter family feud between Louella Benson and various relatives. Benson alleges that the defendants and psychologist Glenn Ally conspired to publish a false report that Benson suffers from schizophrenia and paranoia. Allegedly, the defendants gave Dr. Ally false information about Benson, and, based on this information, Ally published the defamatory report.

*Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that rule, the Court has determined that this opinion should not be published.

On October 8, 1986, the district court granted summary judgment for defendant Faul Energy Co., based on the company's affidavit that it never provided information to Dr. Ally and that it had nothing to do with the alleged defamatory scheme. In addition, Dr. Ally swore by deposition that he received information from some of the Fauls but not from Faul Energy to Dr. Ally but claimed that she could uncover such proof with more discovery. She did not specify what information she expected to elicit by discovery. Moreover, on July 11, 1986, the district court had denied a motion by Benson to compel discovery, because Benson had made no effort to coordinate discovery with the defendants. Given the evidence and the time allowed for discovery, we affirm the granting of summary judgment for Faul Engery Co.

Under Louisiana law, a statement must be "false" to be defamatory. *Cangelosi v. Schwegmann Brothers, Inc.*, 390 So. 2d 196 (La. 1980); *Manale v. City of New Orleans*, 673 F.2d 122, 125 (5th Cir. 1982).

On October 8, 1986, the district court granted summary judgment for Dr. Ally on the grounds that his report was not "false." Ally's report stated:

> I have not had the opportunity to interview and/or evaluate Mrs. Benson [and] my impressions are based solely on the written statements provided me, and are hypotheses which should be corroborated by clinical evaluation. . . If one accepts the accuracy of the statements provided me, it would seem, based on these documents, that Mrs. Benson suffers from a chronic psychological disorder, [most likely] schizophrenia, paranoid type. In my opinion, there does appear to be sufficient justification to request further psychiatric/psychological evaluation.

Benson claims that the information on which Dr. Ally relied was false. She also claims that she is not schizophrenic or paranoid. As set out above, Dr. Ally simply gave his qualified, professional opinion that the allegations about Benson, *if true*, "false." *See Jacobs v. O'Bannon*, 472 So.2d 180 (La. App. 4th Cir. 1985)[1]

To the extent that Benson alleges that Ally committed medical malpractice, her claim is foreclosed by La. R. S. § 40:1299.47, which requires her to present her claim to a "medical review panel" before suing in court. *See Seoane v. Ortho Pharmaceuticals, Inc.*, 660 F.2d 146 (5th Cir. 1981).

We affirm the summary judgment in favor of Dr. Ally.

On June 2, 1986, the c [67a] :t court under Fed. R. Civ. P. 35 ordered Benson to undergo a mental examination. This order was proper because Benson had placed her mental condition in issue, and the record in this case itself indicates the need for such an evaluation. On October 10, 1986, the court ordered Benson to comply with the June 2 order by October 20, 1986. On October 23, 1986, the district court dismissed Benson's suit under Fed. R. Civ. P. 37(b)(2), as a sanction for failing to submit to a mental examination.

We reverse this dismissal for two reasons. First, the court never specified *who* would exam Benson, as it was required to do by Rule 35. Second, although the district court has broad discretion under Rule 37(b)(2), it made no findings to justify the dismissal. *See Batson, v. Neal Spelce Association, Inc.*, 765 F.2d 511, 516 (5th Cir. 1985).[2]

[1]Jacobs stated that Soula O'Bannon may have had sexual relations with her father. The court held this statement was not false, because "anything is possible, and Jacobs was merely stating a possibility . . . however remote it may be."

[2]The defendants, in their motion to dismiss, alleged that Benson skipped two scheduled appointments with Dr. William Cloyd. The district court, however, made no such findings.

Finally, the defendants move to dismiss this appeal, alleging that Benson failed to file a timely notice of appeal.

Benson filed notices of appeal on October 31, 1986, while motions to reconsider the summary judgments and the default were pending before the district court. Those motions were denied on NOvember 17, 1986. The consideration of and ruling upon the appellant's motions to reconsider after the notices of appeal were filed rendered those notices "nullities," "it [was] as if no notices of appeal were filed at all." *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 61, 103 S. Ct. 400, 403, 74 L.Ed.2d 225 & 1982). On November 24, 1986, however, Benson wrote the district court clerk to re-urge her appeals. The November 24 letter can be treated as an adequate notice of appeal, and we have jurisdiction to consider this appeal.

We affirm the summary judgments in favor of Faul Energy Co. and Dr. Glenn Ally but reverse the dismissal under Rule 37(b)(2) and remand appeal number 86-4798 for further proceeding in accordance with this opinion.

AFFIRMED IN PART AND REVERSED IN PART.

United States Court Of Appeals
FOR THE FIFTH CIRCUIT

Nos. 86-4797 and 86-4798
Summary Calendar

D.C. Docket No. CV-86-0489-L

LOUELLA F. BENSON,
Plantiff-Appellant,

versus

GLENN A. ALLY, *Et. Al,*
Defendants-Appellees.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA

Before POLITZ, WILLIAMS, and JONES, Circuit Judges.

J U D G M E N T

This cause came on to be heard on the record on appeal and was taken under submission on the brief on file.

ON CONSIDERATION WHEREOF, It is now here ordered and adjudged by this Court that the judgment of the District Court in this cause is affirmed in part and reversed in part, and the case is remanded to the District Court for further proceedings in accordance with the opinion of this Court.

IT IS FURTHER ORDERED that each party bears its own costs on appeal.

August 27,1987

ISSUED AS MANDATE:

IN THE United States Court Of Appeals
FOR THE FIFTH CIRCUIT

Nos. 86-4797 and 86-4798

LOUELLA F. BENSON,
Plantiff-Appellant,

versus

GLENN A. ALLY, *Et. Al,*
Defendants-Appellees,

entered 9/23/87

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA

ON PETITION FOR REHEARING

Before POLITZ, WILLIAMS and JONES, Circuit Judges.
PER CURIAM:

IT IS ORDERED that the petition for rehearing filed in the above entitled and numbered cause be and the same is hereby denied.

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 86-4797

LOUELLA F. BENSON,

Plaintiff-Appellant,

versus

GLENN A. ALLY, PHD., and
FAUL ENERGY CO.,

Defendants-Appellees.

No. 86-4798

LOUELLA F. BENSON,

Plaintiff-Appellant,

versus

GLENN A. ALLY, ET AL.,

Defendants-Appellees.

Appeal from the United States District Court for the
Western District of Louisiana

ORDER:

IT IS ORDERED that appellant's motion to supplement the record on appeal is denied.

/s/ Williams
United States Circuit Judge

U.S. COURT OF APPEALS
FILED
AUG 27 1987
GILBERT F. GANUCHEAU
CLERK

6432 Montrose St.
Alexandria, Va. 22312

Nov. 24, 1986

Hon. Robert H. Shemwell,Clerk
United States Western District
106 Joe D. Waggoner Fed. Bldg.
500 Fannin Street
Shreveport, La. 71101

Dear Mr. Shemwell:

Re: Louella F. Benson vs.
Glenn A. Ally et al
CV86-0489 - Section L

This letter is to serve as notice that the attached copy of the Judge's Order of 17th Nov., 1986, denying plaintiff's motion's for reconsideration of orders the plaintiff is appealing in the above case is to be included with the plaintiff's prior notice of appeal to the Fifth Circuit.

Please send the entire record, including letteres, exhibits list and exhibits etc. to the Fifth Circuit as soon as possible. Please send me an up-to-date copy of the docket sheet.

I must again note my exception and objection to information and verifications requested and not received as previously documented, the complete denial of discovery, crucial matters ignored, and denial of due process. Please return the enclosed copy of this letter marked filed.

Sincerely yours,

/s/ Louella F. Benson, pro se
6432 Montrose Street
Alexandria, Va. 22312

cc: Charles Brandt, Esq.
Homer Ed Barousse, Esq.

Encl. self-addressed stamped envelope

RECEIVED
U.S. Court of Appeals
Jan. 27, 1987
New Orleans, LA.

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

LOUELLA BENSON

versus CIVIL ACTION NO. 86-0489

GLENN ALLY, ET AL.

ORDER

IT IS ORDERED that plaintiff's motions for reconsideration are DENIED.

THUS DONE AND SIGNED at Monroe, Louisiana, this 17th day of November, 1986.

/s/Donald E. Walter
DONALD E. WALTER
UNITED STATES DISTRICT JUDGE

U.S. DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
FILED
NOV 18 1986
ROBERT H. SHEMWELL, CLERK
By: (initials illegible)
DEPUTY

COPY SENT
DATE 11-21-86
BY ad
TO: Benoon
Brandt
Barousse

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

LOUELLA BENSON
versus CIVIL ACTION NO. 86-0489
GLENN ALLY, ET AL.

ORDER

Pursuant to the foregoing Memorandum Ruling,

IT IS ORDERED that defendants' motion to have plaintiff comply with Fed. R. Civ. P. 10(b) is GRANTED.

IT IS FURTHER ORDERED that defendants' motion for a more definite statement as to plaintiff's defamation claim is GRANTED.

IT IS FURTHER ORDERED that defendants' motion for a more definite statement as to the remainder of plaintiff's complaint is DENIED.

IT IS FURTHER ORDERED that plaintiff comply with the foregoing Memorandum Ruling by May 31, 1986.

THUS DONE AND SIGNED at Monroe, Louisiana, this 7th day of May, 1986.

/s/ Donald E. Walter
DONALD E. WALTER
UNITED STATES DISTRICT JUDGE

COPY SENT:
DATE 5-9-86
BY ad
TO: Benson
Brandt
Barousse

U.S. DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
FILED
MAY 9 - 1986
ROBERT H. SHEMWELL, CLERK
By: dd
DEPUTY

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

LOUELLA BENSON
versus CIVIL ACTION NO. 86-0489
GLENN ALLY, ET AL.

MEMORANDUM RULING

Pending for determination are defendants' motions to strike, for a more definite statement and to compel compliance with Rule 10(b) as to form of complaint. Plaintiff opposes these motions. For the following reasons, defendants' motions are GRANTED in part and DENIED in part.

Plaintiff, acting on her own behalf, brings this action for what appears to be an injunction and damages. Plaintiff claims she was improperly labeled by Dr. Ally as having psychological disorders which information has been publicized. The other defendants allegedly hired Dr. Ally to perform a court ordered psychological examination of plaintiff, that he allegedly did an evaluation based on affidavits. Plaintiff apparently seeks damages, an injunction and to have her medical record expunged of the "false" evaluation.

Appearing pro se, plaintiff has not strictly complied with the formal rules of pleading, namely Fed. R. Civ. P. 10(b). This error in itself does not mandae the Court to grant defendants' motion for a more definite statement under Fed. R. Civ. P. 12(e) or motion to strike under Fed. R. Civ. P. 12(f). In fact, both of these remedies are considered drastic and are generally disfavored by the Court. Wright & Miller, *Federal Practice and Procedure*, § 1376 at 733, 1380 at 783. Such relief has been allowed in limited circumstances. *Id.*

Motions to state and number counts separately under Rule 10(b) and for a more definite statement under Rule 12(e) may be used interchangeably. Here, defendants' have moved under both rules that the above requirement of pleading be complied with. To simplify and clarify plaintiff's complaint, Rule 10(b) should be complied with; therefore, plaintiff is instructed to state and number her counts separately, particularly as to paragraphs 4 and 7 of her original complaint, and as to para graph 1 and 2 of her amended complaint.

Further addressing Rule 12(e) aside from its connexity with Rule 10(b), the Court notes that other appropriate areas for a more definite statement are limited. Wright & Miller, at 733. Pleadings must be sufficiently intelligible for the Court to be able to make out one or more potentially viable legal theories on which a claimant might proceed. *Id.* For this rule to apply, the complaint must be so vague or ambiguous that the defendant cannot respond, even with a simple denial, in good faith or without prejudice to himself. In the present matter, the complaint does not quite reach this level of vagueness.

In certain actions, such as libel and slander, the Court's have more liberally applied Rule 12(e) in requiring more comprehensive pleadings than in other type actions. Wright & Miller, § 1377 at 756. In the case at bar, plaintiff has asserted a claim for defamation, particularly in paragraph 7 of her original complaint and paragraph 1 of her amended compliant. As to this claim, plaintiff shall provide more particular information as to the dates, times, places and names of persons circulating the alleged defamatory material. *Schnedler v. Reading Eagle Publication, Inc.*, 370 F.2d 795 (3rd Cir. 1967).

As noted above, relief under Rule 12(f) is considered a drastic remedy. Often, motions to strike are used as a dilatory tactic and are thus disfavored and infrequently used by the Courts. *Augustus v. Board of Public Instruction*, 306 F.2d

862 (5th Cir. 1962). Generally, even if material is found to be unrelated to plaintiff's claim and unworthy of consideration, a showing of prejuidice by leaving the material in the complaint is required before a motion to strike will be granted. *Id.* at 868. Where there is no showing of prejudice, as here, the Court should defer action on a motion to strike the pleadings to a determination of the sufficiency of the allegations on the merits. *Id.* at 868.

Defendants' motions as to the remainder of plaintiff's complaint are DENIED.

Failure of plaintiff to comply with the directions of this opinion by May 31, 1986, shall result in dismissal of plaintiff's complaint.

THUS DONE AND SIGNED at Monroe, Louisiana, this 7th day of May, 1986.

/s/ Donald E. Walter
DONALD E. WALTER
UNITED STATES DISTRICT JUDGE

U.S. DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
FILED
MAY 9-1986
ROBERT H. SHEMWELL, CLERK
BY dd
DEPUTY

COPY SENT:
DATE 5-9-86
BY dd
TO: Benson
Brandt
Baroussse

MINUTE ENTRY
WALTER J.
June 2, 1986

LOUELLA BENSON
versus CIVIL ACTION NO. -6-0489
GLENN ALLY, ET AL. MONROE DIVISION

* * *

Defendants' motion for a motion for a mental examination of plaintiff pursuant to Fed. R. Civ. P. 35 is Granted. *See Schlagenhauf v. Holder*, 85 S.Ct. 234, 243 (1964). If defendants pay for plaintiff's travel expenses, this examination shall be performed in Lafayette, Louisiana; otherwise, this examination will be done in Alexandria, Virginia.

U.S. DISTRICT COURT
WESTERN DISTRICT OF LOUISINA
FILED
JUNE 2-1986
ROBERT H. SHEMWELL, CLERK
BY dd
DEPUTY

COPY SENT:
DATE June 2, 1986
BY add
TO: Benson
Brandt
Barousse, Jr.

MINUTE ENTRY
WALTER J.
June 13, 1986

LOUELLA BENSON
versus CIVIL ACTION NO. 86-0489
GLENN ALLY, ET AL. MONROE DIVISION

* * *

Plaintiff's motion for reconsideration of the Court's Minute Entry filed June 2, 1986, granting defendants' motion for a mental examination of plaintiff pursuant to Fed. R. Civ. P. 35 is DENIED.

U.S. DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
FILED
JUNE 13 1986
ROBERT H. SHEMWELL, CLERK
BY dd
DEPUTY

COPY SENT:
DATE 6-13-86
BY dd
TO: benson
Brandt
Barousse

* * * previously submitted.

WHEREFORE, plaintiff prays that the corrections mentioned will be made and too that the orders reflect that plaintiff's case is alleging the actions of the defendants were not only to discredit her, but to discredit her to deny her due process in order that they can pursue their fraudulent scheme to take unfair advantage of plaintiff in business dealings concerning estate property. In view of the evidence in the estate

cases which this Judge has not ruled on, and crucial issues in this case, plaintiff feels it is important to make these corrections.

Respectfully submitted,

/s/ Louella F. Benson
Louella F. Benson, pro se
6432 Montrose Street
Alexandria, Va. 22312
703 256 7595

I certify that a copy of the foregoing is being mailed via first class mail to Charles Brandt, counsel for defendants, at 300 B Stewart St., Lafayette, La. 70501, on this the 27th day of June 1986, and to Homer Barousse, Edwards Bldg., P.O. Box 730, Crowley, La. 70527 0730.

/s/ Louella F. Benson
Louella F. Benson, pro se

U.S. DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
FILED
JUL 2 1986
ROBERT H. SHEMWELL, CLKER
BY dd
DEPUTY

COPY SENT:
DATE 7-2-86
BY dd
TO: Benson
Brandt
Barousse

Denied no factual finding has been made by this Court.

Donald Walter
July 2, 1986

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION

LOUELLA F. BENSON
VESUS CIVIL ACTION NO. 86-0489
GLENN A. ALLY, PhD, ET AL SECTION: L

ORDER

On June 2, 1986 plaintiff filed a motion to compel defendants to respond to interrogatories propounded on or about April 19, 1986. An opposition to this motion and a motion for extension of time in which to respond was filed on June 13, 1986.

The plaintiff requests responses to interrogatories propounded to four different defendants, Lois F. Bearb, Dr. Glenn Ally, Ewell J. Faul, and Izena Kidder. In opposition to this motion the defendants argue that the plaintiff has failed to comply with Local Rule 10.1(b) prior to filing this motion.

Under Local Rule 10.1(b) the court may refuse to hear a motion where it finds that the movant has failed to make "sincere attempts" to resolve differences. This rule requires that the movant conduct a discovery conference with the opposing party and file a certificate indicating the date, time, and place of the conference. The rule further provides as follows:

> In the event that a conference described above has not been held, the motion may be filed if the mover certifies to an inability to comply with the requirements of Rule 10.1(b) because opposing counsel will not confer with mover. In the event of such a contingency, the certificate should state, at a minimum, that the moving party sent a register-

ed letter followed by two telephone calls requesting a 10.1(b) conference and that the requests were ignored or denied by opposing counsel.

In plaintiff's motion to compel she alleges that a letter was sent to opposing counsel on May 6,1986 to "remind counsel for the defendants to have the defendants answer the interrogatories . . ." Based on this information, it is clear that plaintiff has failed to make "sincere attempts" to resolve this discovery dispute.

It is also necessary to point out that plaintiff's motion to compel is extremely ambiguous and burdensome in length. The motion is ten pages long and sets forth numerous facts and occurrences which are totally irrelevant to this motion. A simple statement that defendants have failed to respond to the interrogatories is sufficient. As written, this motion is extremely burdensome and detrimental to the efficiency of the court. The court may impose sanctions under Rule 11 of the Federal Rules of Civil Procedure and/or 28 U.S.C. §1927 where a party's conduct is unreasonable and vexatious or creates unnecessary delay or needless increase in the cost of litigation. Subsequent motions which are not filed in accordance with these rules will require the imposition of appropriate sanctions.

Therefore, for the foregoing reasons, IT IS HEREBY ORDERED that plaintiff's motion to compel defendants to respond to interrogatories is denied.

Lafayette, Louisiana, this 11th day of July, 1986.

U.S. DISTRICT COURT
WESTERNDISTRICT OF LOUISIANA
FILED
JUL 11 1986
ROBERT H. SHEMWELL, CLERK
BY JP
DEPUTY

/s/ Mildred E. Methvin
MILDRED E. METHVIN
United States Magistrate

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION

LOUELLA F. BENSON
VERSUS CIVIL ACTION NO. 86-0489
GLENN A. ALLY, PhD, ET AL SECTION: L

ORDER

Considering the foregoing, it appearing that there be good cause to allow the supplemental filing,

IT IS ORDERED that Faul Energy Co., Inc. be allowed to supplement its original motion for summary judgment filed herein on September 4, 1986.

Monroe, Louisiana, this 3d day of October, 1986.

/s/ Donald E. Walter
DISTRICT JUDGE

U.S. DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
FILED
OCT 3-1986
ROBERT H. SHEMWELL, CLKER
BY: dd
DEPUTY

COPY SENT:
DATE 10-3-86
BY dd
TO: Benson
Brandt
Brousse Jr.

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF LOUSIANA
MONROE DIVISION

LOUELLA BENSON
versus CIVIL ACTION NO. 86-0489
GLENNY ALLY, ET AL.

MEMORANDUM RULING

Pending for determination are defendants', Glenn Ally and Faul Energy Co., Inc. ("Faul Co."), motions for summary-judgment. Submitting affidavits and a copy of Ally's report, defendants contend that plaintiff cannot prove the requisite elements of a claim for defamation. Plaintiff opposes. For the following reasons, defendants' motions for summary judgment are Granted.

Plaintiff, appearing pro se, brings this action apparently seeking an injunction and damages. Specifically, she claims she was improperly labeled by Ally, a clinical psychologist, as having psychological disorders after an evaluation of unsworn statements by other named defendants in this action. Seemingly stating claims for both defamation and medical malpractice,[1] plaintiff seeks damages injunctive relief and expungement of the report.

Ally was contacted by Charles Brandt, counsel for defendants, and requested to analyze several statements to determine if the subject of the statements was exhibiting any psychological disorders. On March 6,1985, defendant forward-

[1]LSA-R.S. 40:1299.47 requires claims for medical malpractice be reviewed before a medical review panel before judicial proceedings can be initiated. Here, plaintiff's failure to comply with this section precludes any consideration by this Court of here possible malpractice action. *Seonae v. Ortho Pharmaceuticals, Inc.*, 660 F.2d 1467 (5th Cir. 1981).

ed his report, the object of this suit, to counsel. Prefacing his report with this nomenclature, ". . . my impresions are based solely on the writen statements provided me, and are hypotheses which should be corroborated by clinical evaluation," the report concludes;

> "If one accepts the accuracy of the statements provided me, it would seem, based upon these documents, that Mrs. Benson suffers from a chronic psychological disorder. The symptoms suggested in the documents are most consistent with a DSM III diagnosis of Schizophrenia, paranoid type. In my opinion, there does appear to be sufficient justification to request further psychiatric/psychological evaluation."

To maintain an action in defamation, plaintiff bears the burden of proving the following elements: (1) defamatory words;[2] (2) publication; (3) falsity; (4) malice, actual or implied; and (5) resulting injury. *Manale v. City of New Orleans, Departemtn of Police,* 673 F.2d 122, 125 (5th Cir. 1982); *Cangelois v. Schwegmann Bros., Etc.*, 390 So.2d 196 (La. 1980). Here, plaintiff cannot prove the falsity of Ally's report;

---

[2]"Louisiana law distinguishes between statements only susceptible of a defamatory meaning and those that are defamatory 'per se.' It defines the latter type as those having a tendency to deprive a person of the benefit of public confidence or to injure him in his occupation or reputation. (Cites omitted). Malice and falsity are presumed and the burden shifts to the defendant to rebut the presumption. (Cites omitted)." *Manale v. City of New Orleans, Department of Police,* 673 F.2d 122, 125 (5th Cir. 1982).Here, whether the report is defamatory per se or only susceptible of defamatory meaning, defendant has carried his burden by showing the possibilities stated in Ally's report are not susceptible of being false. *Infra; Jacobs v. O'Bannon,* 472 So.2d 180, 182 (La. App. 4th Cir. 1985).

thus, defendant is entitled to judgment as a matter of law.[3] The report, and the conclusions drawn therein, are hypotheses, incapable of being proven false. *Jacobs v. O'Bannon*, 472 So.2d 180, 182 (La. App. 4th Cir. 1985).[4] Ally's report talks in possibilities assuming certain facts as true; this basic premise is made clear in the report itself. *See supra.* Plaintiff cannot establish all the requisite elements for a defamation action; therefore, defendant's, Glenn Ally, motion for summary judgment is Granted.[5]

---

[3]Under Fed.R.Civ.P. 56, this Court may grant summary judgment if there is "no genuine issue as to any material fact." In determining whether there is a genuine fact issue, the Court must review the pleadings, interrogatories and attachments in the record, together with the affidavits. The Fifth Circuit addressed the specifics of summary judgment in *Keiser v. Coliseum Properties, Inc.*, 612 F.2d 406, 410 (5th Cir. 1980) and held: "The burden of proof falls on the party seeking summary judgment, and any doubt as to the existence of a genuine issue of material fact must be resolved against the moving party. (Citations omitted.) We note that a court can only enter a summary judgment if *everything* in the record — pleadings, depositions, interrogatories, affidavits, etc. — demonstrates that no genuine issue of material fact exists. Rule 56 does not distinguish between documents merely filed and those singled out by counsel for special attention — the court must consider both before granting a summary judgment."

[4]In *Jacobs, supra*, plaintiff's claim for defamation were based on statements contained in a brief that her child could have been conceived in an incestuous union. Although these statements may be very painful and contain suggestions of unthinkable conduct the court held they cannot be false per se. *Id.* at 182. "Anything is possible; and [appellee] was merely stating a possibility which existed in this case however remote it may be." *Id.*

[5]Defendant also argues his entitlement to summary judgment because his report is covered by a qualified privilege concerning pleadings filed during litigation, *Jacobs*, 472 So.2d at 182-83, and there was no publication. *Manale*, 673 F.2d at 125. However, the report in question exists independent of the record in this suit, and its dissemination was not necessarily limited to counsel; summary judgment based on these arguments is inappropriate.

Faul Co.'s motion for summary judgment is also Granted. Plaintiff claims that "E.J. Faul ("Faul Energy Co.") did publish, sign and circulate an affidavit . . . ." Plaintiff seems to assume that E.J. Faul is the Faul Co.;[6] however, E.J. Faul is only a minority shareholder in the company. *See* Affidavit of Charles Goss. Faul Co. did not publish any defamatory statement; therefore, it is entitled to judgment as a matter of law. *See supra* n. 3.

THUS DONE AND SIGNED at Monroe, Louisiana, this 8th day of October, 1986.

/s/ Donald E. Walter
DONALD E. WALTER
UNITED STATES DISTRICT JUDGE

U.S. DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
FILED
OCT 8-1986
ROBERT H. SHEMWELL, CLERK
BY dd
DEPUTY

COPY SENT:
DATE 10-8-86
BY dd
TO: Benson
Brandt
Barousse Jr.

[6]Answering defendant's interrogatory "What did Faul Energy do that caused you to be defamed?," plaintiff answered in part that "E.J. Faul is the Faul Energy Co."

* * *

THE COURT: Excuse me, seems like he should know something about that being a geologist.

MRS. BENSON: But he's not in that field, Your Honor. It's like my expert I wanted to testify about appraising —

THE COURT: I think if he's an expert in geology at that point —

MR. BRANDT: I offer Mr. E.J. Faul as an expert in the field of geology.

MRS. BENSON: I object to him testifying as a drainage expert, because, if you'll recall, my engineer, Mr. Langlinais, works in areas of appraisal through subdivisioins, and he even does partitions, so he has experience, but we didn't allow him to testify as an appraisal expert, and the same is true. There are likes in that Ewell Faul is not an engineering expert and he doesn't do drainage. He's really a very, very biased witness.

THE COURT: Well, bias doesn't go to his expertise. I'm going to overrule your objection. I'm going to qualify this witness as a geologist. He certainly is one.

All right, you may ask him his opinion.

MR. BRANDT: Thank you, Your Honor.

* * *

Q You mentioned the Faul Energy Company that you had at one time.

A Yes.

Q When did you have the Faul Energy Company?

A It was in either '82 or '83. Let's see, probably '84, 1984.

Q What does the Faul Energy Company do?

A Look for oil and gas, or it did look for oil and gas.

Q Did you have any Federal contracts?

A No, I did not.

MR. BRANDT: I object. This is irrelevant.

THE COURT: What's the relevance of contracts with this company?

MRS. BENSON: Well, there was a reason, Your Honor. There is —

THE COURT: You may have a reason but I need a reason.

MRS. BENSON: Yes, I will give you my reason.

THE COURT: No, I mean, what reason for the case? Is that relevant?

MRS. BENSON: Maybe I can answer your question by asking another question, then if it's not answered, I will try to answer it.

THE COURT: No, that's not the way we do it.

* * *

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

LOUELLA BENSON
versus CIVIL ACTION NO. 86-0489
GLENN ALLY, ET AL.

ORDER

Pursuant to the foregoing Memorandum Ruling,

IT IS ORDERED that defendants, Glenn Ally and Faul Energy Co., Inc., motions for summary judgment are Granted;

IT IS FURTHER ORDERED that defendant's, E.J. Faul, motion to compel answers to interrogatories is Moot;

IT IS FURTHER ORDERED that plaintiff's motion for change of venue is Denied;

IT IS FURTHER ORDERED that the Magistrate's ruling denying plaintiff's motion to compel defendants to answer interrogatories is Affirmed.

THUS DONE AND SIGNED at Monroe, Louisiana, this 8 day October, 1986.

/s/Donald E. Walter
DONALD E. WALTER
UNITED STATES DISTRICT JUDGE

U.S. DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
FILED
OCT -1986
ROBERT H. SHEMWELL, CLERK
BY dd
DEPUTY

COPY SENT
DATE 10-8-8
BY dd
TO Benson
Brandt
Barousse Jr.

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

LOUELLA BENSON
VERSUS CIVIL ACTION NO. 86-0489
GLENN A. ALLY, PhD, MALCOLM BEARB,
GRACE IZENA KIDDER, MELVIN KIDDER,
LOIS F. BEARB, EWELL J. FAUL, FAUL
ENERGY CO., NELLIE C. FAUL, AIMEE
MELODY FAUL and LESLIE FAUL

JUDGMENT OF DISMISSAL

This matter came to be considered after the filing of the motion of summary judgment on behalf of Faul Energy Co., Inc. (Faul Co.) and Glenn A. Ally and, the Court considering said motion and, for the reasons stated in this Court's ruling of October 8,1986, the motion for summary judgment in favor of Glenn A. Ally and Faul Energy Co., Inc. (the Faul Co.) is hereby granted, and, accordingly,

IT IS ORDERED, ADJUDGED AND DECREED that the motion for summary judgment is granted and Glenn Ally and Faul Energy Co. (the Faul Co.) are herby dismissed from this litigation with full prejudice to the rights of plaintiff, Louella F. Benson, at her cost.

Judgment signed in chambers at Monroe, Louisiana on this 14th day of October, 1986.

/s/ Donald E. Walter
DONALD E. WALTER
UNITED STATES DISTRICT JUDGE

U.S. DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
FILED
OCT 14 1986
ROBERT H. SHEMWELL, CLERK
BY dd
DEPUTY

Judgment Entered 10-16-86
By spl
Copy To Benson
Brandt

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

LOUELLA BENSON
VERSUS CIVIL ACTION NO. 86-0489
GLENN A. ALLY, PhD, MALCOLM BEARB,
GRACE IZENA KIDDER, MELVIN KIDDER,
LOIS F. BEARB, EWELL J. FAUL, FAUL
ENERGY CO., NELLIE C. FAUL, AIMEE
MELODY FAUL and LESLIE FAIL

JUDGMENT OF DISMISSAL

This matter came to be considered after the filing of a motion to dismiss for plaintiff's failure to comply with the Court's discovery order filed June 2, 1986 and, the Court considering the motion to dismiss and/or for default to be well founded, said motion is hereby granted, and, accordingly,

IT IS ORDERED, ADJUDGED AND DECREED that the motion to dismiss and/or for default judgment is hereby granted, dismissing this case with full prejudice to the rights of plaintiff, Louella F. Benson, at her costs.

Judgment signed in chambers at Monroe, Louisiana on this 23 day of October, 1986.

/s/ Donald E. Walter
DONALD E. WALTER
UNITED STATES DISTRICT JUDGE

U.S. DISTRICT COURT
WESTERN DISTRICT OF COLUMBIA
FILED
OCT 23 1986
ROBERT H. SHEMWELL, CLERK
BY dd
DEPUTY

Judgment Entered 10-24-86
By spl
Copy to Benson
Brandt
Barousse

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION
in Opelousas

FEBRUARY 20, 1985

PRESENT: HON. JOHN M. SHAW, JUDGE, Presiding
Mildred Baker, Minute Clerk

COURT OPENED: 9:30 AM COURT ADJOURNED 11:00AM

CASE NO. 84-2540
SECTION O

LOUELLA F. BENSON VS. FOREST BEARB

APPEARANCES
CHARLES BRANDT FOR DEFENDANT

* * * * *

VERDICT, RULING, COMMENTS:

Plaintiff waived appearance.

Motion on behalf of plaintiff to dismiss defendant's counterclaim submitted without oral argument and the motion DENIED.

IT IS ORDERD that there be a telephone settlement conference between plaintiff and counsel for defendant in this case, to be initiated by counsel for defendant, by March 4, 1985. Counsel for defendant is directed to report the results of this telephone conference to the Court.

6432 Montrose Street
Alexandria, Va. 22312

March 20, 1985

Ms. Rita V. Watkins, Deputy Clerk
United States District Court
106 Joe D. Waggonner Federal Bldg.
500 Fannin Street
Shreveport, La. 71101

Dear Ms. Watkins:

Re: Louella F. Benson v.
Forest Bearb, CV 84-2540
Louella F. Benson v.
Lois Bearb, et al CV
84-2541

Thank you for your letter dated March 14, 1985.

You referred to attaching a copy of the Minutes of Court dated Feb. 20, 1985, which you forgot to enclose in March 14, 1985 letter. However, you are correct in stating that I have a copy of the form entitled Minutes of Court, dated Feb. 20, 1985 re C.V. 84-2540. I do not need another copy of this. My request to you was to be furnished with information or order if there was anything other than the information on the Minutes of Court form dtd. Feb. 20,1985 re C.V. 84-2540.

I am aware that there are no charges for copies of orders and rulings of the Court etc. My request and check dated March 7, 1985 was for 1 different matter. My letter of March 7, 1985 addressed to Ms. Baker was in effort to obtain copies of "any information or affidavits which may have been furnished by certain members of my family in support of the motions for evaluations and examinations in either case." My letter goes on to explain the reasons for this question and request.

Specifically, I am requesting as to whether or not any representations, information and/or affidavits have been provided to the Court or Clerk, by any member of my family requesting evaluations, examinations (or making any representations for any reasons), and if such is the case in any of these or any matters, I am enclosing the $25.00 check to obtain copies of any such affidavits or representations made by any member of my family. I note that Ms. Baker is in Opelousas and I am sending the check to her with a copy of my letter dated March 7,1985.

As explained in my letter of March 7,1985, Mr. Brandt does not know me; my pleadings did not form the basis for any such evaluations. It is crucial that I obtain the basis for Mr. Brandt's misrepresentations to my former counsel and affidavits he signed. For the most part, I have not been around several members of my family for years. The personal circumstances and/or motives of anyone in my family making any such repersentations, requests (or signing any such affidavit) cannot be ignored. The stigma of mental illness, the things that flow from mental illness in this day and age make any misrepresentations in that area serious matters. The government does research on mental patients, health care is greatly affected, the stigma is hardly compatible with life, liberty and the purrsuit of happiness or in efforts to obtain due process, or to own and enjoy one's property.

I wish to express great exception to the difficulties my former counsel and myself encountered in obtaining copies of sworn affidavits from Mr. Bryant which should have been automatically provided, and with the difficulties I am having in pursuing discovery and the on-going misrepresentations made to the Court, as documented in my letter of March 9,1985 to Mr. Brandt with a copy to Judge Shaw.

I have not received any copies of briefs in opposition by Mr. Brandt or defendants to my pending motions before Magistrate Methivin. (Mr. Brandt had been copied with my briefs in opposition to their motions.) It is crucial that Mr. Brandt keeps me copied with all matters, especially in view of the misrepresentations made.

/s/ Louella F. Benson
Louella F. Benson

cc:
Ms. Mildred A. Baker with enclosures
Deputy Clerk
U.S. District Court
Opelousas Division
306 Federal Building
Opelousas, La.

U.S. DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
FILED
MAR 22 1985
ROBERT H. SHEMWELL, CLERK
BY ael
DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION

LOUELLA F. BENSON
VS. CIVIL ACTION NUMBER 84-2540
FOREST BEARD SECTION O

LOUELLA F. BENSON
VS. CIVIL ACTION NUMBER 84-2541
LOIS FAUL BEARB, ET AL SECTION O

RULING

Now before the Court are two appeals from the Magistrate's rulings of April 22 and May 8, 1985. Defendants have appealed the Magistrate's ruling of April 22, which denied defendants' motion for an order to require plaintiff to submit to mental examination and which imposed sanctions of fifty dollars per defendant for filing a frivolous motion. Plaintiff Louella Benson has appealed the Magistrate's ruling of May 8, which denied plaintiff's motion to compel defendant Forest Bearb to supplement his responses to a set of interrogatories served on January 29, 1985.

Having reviewed the Magistrate's rulings and the memoranda and other documents submitted by both plaintiff and defendants, this Court must affirm both decisions for the reasons stated in the Magistrate's rulings.

Accordingly, the defendants' appeal from the Magistrate's

ruling of April 22 and the plaintiff's appeal of the May 8 ruling are both hereby DENIED.

Opelousas, Louisiana, June 19, 1985.

/s/ J.M. Shaw
JOHN M. SHAW
UNITED STATES DISTRICT JUDGE

U.S. DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
FILED
JUN 19 1985
ROBERT H. SHEMWELL, CLERK
BY RW
DEPUTY

COPY SENT
DATE 6-19-85
BY: RW
TO: Benson
Brandt

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION

LOUELLA BENSON
VERSUS CIVIL ACTION NO. 84-2541
LOIS BEARB SECTION: O

AND

LOUELLA BENSON
VERSUS CIVIL ACTION NO. 84-2540
FOREST BEARB SECTION: O

RULING

Before the court are defendants' motions for an order to require Louella Benson to submit to a mental examination under F.R.C.P. Rule 35(a).

On December 3, 1984 defendants filed their initial motion to compel Louella Benson to submit to a mental examination. By minute entry dated January 17,1985 I denied this motion on the basis that defendant had failed to make an affirmative showing both of "good cause" and that Louella Benson's mental condition was "in controversy", as required under F.R.C.P. Rule 35. On January 15,1985 plaintiff in turn filed a motion to require defendants to submit to a mental examination under any applicable law. By minute entry dated March 29, 1985 I denied plaintiff's motion and entered an award of $100.00 against plaintiff for her frivolous claim.

On March 26, 1985 defendants filed this renewed motion to require Louella Benson to submit to a mental exam under F.R.C.P. 35(a). In support of a "good cause" and "in controversy" finding, reasons are stated as follows:

> Defendants *feel* the plaintiff does not have the mental capacity to proceed with this suit. Second, defendant will assert as a defense to this claim, that the petitioner is suffering from a mental condition known as schizophrenia, paranoid type. (Emphasis added)

Clearly, these allegations fail once again to meet the "good cause" and "in controversy" requirements of F.R.C.P. Rule 35(a). The rule requires that the moving party show "good cause" and that the condition to be examined is "in controversy". I refer counsel to my minute entry dated January 17, 1985.My reasoning remains unchanged.

All parties in this suit should be aware of the court's growing impatience with the barrage of the innumerable, redundant and frivolous claims filed in the form of motions, letters, and pleadings and intended solely for purposes of harrassment and retaliation. Federal court is not a forum designed for the convenience of embittered relatives to wage an unchecked battle of harrassment.

Therefore it is hereby ORDERED that defendant's motion to require Louella Benson to submit to a mental examination is DENIED.

It is FURTHER ORDERED that a sanction of $50.00 be entered against each defendant in favor of the plaintiff under Rule 37 F.R.C.P.

Further frivolous motions will invoke contempt sanctions against the parties in accordance with this order.

Lafayette, Louisiana, this 22nd day of April, 1985.

U.S. DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
FILED
APR 23 1985
ROBERT H. SHEMWELL, CLERK
BY Rvw
DEPUTY

/s/ Mildred E. Methvin
MILDRED E. METHVIN
United States Magistrate

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION

LOUELLA F. BENSON
VERSUS CIVIL ACTION NO. 84-2541
LOIS FAUL BEARB, ET AL SECTION: 0

AND

LOUELLA F. BENSON
VERSUS CIVIL ACTION NO. 84-2540
FOREST BEARB SECTION: O

MINUTE ENTRY

On December 3, 1984 Forest Bearb filed a motion to require plaintiff Louella Benson to submit to a mental examination under F.R.C.C.P. 35(a). Plaintiff filed an opposition to this motion on December 26, 1984.

F.R.C.P. 35(a) permits the court, for good cause shown, to order a party to submit to a physical or mental examination when the mental or physical condition of said party is in controversy. The courts have recognized that F.R.C.P. 35(a) requires an affirmative showing of both "good cause" and that the party's mental/physical condition is "in controversy." *Schlagenhauf v. Holder*, 379 U.S. 104 (1964).

There are instances where the pleadings alone are sufficient to support the "in controversy" requirement. *Brandenberg v. El Al Israel Airlines*, 79 F.R.D. 543 (1978). Here, however, Louella Benson has not asserted her mental condition in support of her claim. The proceeding at hand involves a 1983 action for deprivation of rights. Plaintiff seeks relief for the general damages of loss of income, humiliation and embarrassment. Therefore, the burden is on defendant, who is making an issue of Louella Benson's mental condition, to

satisfy the "good cause" and "in controversy" requirements of F.R.C.CP. 35(a).

Defendant attempts to carry his burden by designating the alleged damages of humiliation and embarrassment as "psychic injuries". This does not amount to an "affirmative showing" that a party's mental condition is in controversy.

Therefore, it is hereby ORDERED that defendant's motion to require Louella Benson to submit to a mental examination is DENIED.

Lafayette, Louisiana, this 17th day of January, 1985.

/s/ Mildred E. Methvin
MILDRED E. METHVIN
United States Magistrate

U.S. DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
FILED
JAN 21 1985
ROBERT H. SHEMWELL, CLERK
BY MB
DEPUTY

COPY SENT
DATE 1-21-85
BY MB
TO: Bush
Benson
Brandt

United States Court of Appeals
For The Fifth Circuit

No. 86-4355
Summary Calendar

D.C. Docket No. CV-84-2540-0

LOUELLA F. BENSON,

Plaintiff-Appellant,

versus

FOREST BEARB, ET AL.,

Defendants-Appellees,

ELTON A. ARCENEAUX, Former Sheriff,
KENNETH G. GOSS, Present Sheriff, and
SOUTHERN AMERICAN INSURANCE COMPANY,

Defendants-Appellees.

Appeal from the United States District Court for the
Western District of Louisiana

Before GEE, RUBIN, and JOLLY, Circuit Judges.

JUDGMENT

This cause came on to be heard on the record on appeal and was taken under submission on the briefs on file.

ON CONSIDERATION WHEREOF, It is now here ordered and adjudged by this Court that the judgment of the District Court in this cause is affirmed without prejudice to any state law tort claims appellant may have.

IT IS FURTHER ORDERED that plaintiff-appellant pay to defendants-appellees the costs on appeal, to be taxed by the Clerk of this Court.

February 26, 1987

ISSUED AS MANDATE:

OP JDT-9C
Rev. 4/85

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION

LOUELLA F. BENSON
VS. CIVIL ACTION NUMBER 84-2540
FOREST BEARB SECTION O

RULING

This matter involves a motion for summary judgment by Elton A. Acrceneaux, Sr., the former sheriff of Acadia Parish, Louisiana, Kenneth G. Goss, Sheriff of Acadia Parish, and Southern American Insurance Company.

On March 23, 1984 the plaintiff's brother-in-law, Forest Bearb, a deputy sheriff in Acadia Parish appeared on the plaintiff's property in St. Landry Parish and accused plaintiff of forgery in the presence of others and told plaintiff "they" were working on it and that "they" would "nail" her at some later time. The plaintiff concedes and the evidence shows that her only damages as a result of this incident were to her reputation.

Prior to the above incident, in December of 1983, plaintiff and her sister, Mrs. Bearb, had a dispute regarding their parents' estate and drainage problems on plaintiff's property caused by the Bearbs which also resulted in a separate lawsuit.

As far as plaintiff remembers, Forest Bearb did not arrive in the sheriff's vehicle, display a gun or state that he was there in an official capacity. He did not attempt to arrest or confine her in any manner. The deposition of plaintiff (pages 16-18) reflects the following:

Q. Okay. So then, he didn't tell you you were under arrest?

A. He led me to believe that I would be prosecuted and nailed.

Q. At some later time?

A. Right.

A. From the statement he made.

Q. Did he tell you that he wanted to bring you in for questioning? Or did he tell you that any other law enforcement official from St. Landry Parish, or from any other jurisdiction wanted to question you about the forgery?

A. No, he didn't say that. But when he told me — after he told me that — I told him, very frankly, to get off my property, that I had never committed a crime, and that I would sue him, and that I would report him. And I did, in fact, go immediately to the DA's office in Opelousas and reported it. And I asked them to get down to the bottom of this, that I did not commit crimes.

Q. I understand, of course, you told me that you thought these were particularly unkind things for him to have said, that they hurt your feelings.

A. They hurt more than my feelings. They hurt my reputation. It's been very damaging and very — they've caused a lot of problems in my life, and a lot of expenses.

Q. Now, only as relates to the March 1984 incident — only as relates to that particdular incident that we've been speaking about with the surveyors on the property, what losses, harm or injury have you suffered as a result of that?

A. My reputation in being accused falsely of having committed a forgery. Of having — as opposed to being able to resolve this administratively,

of having to go to the Courts, and creating a great deal of expenses in the Courts, and trips, and having to be away from my home, from my life. Additionally, since he was doing this to help his wife, to try to drive me away, and it was baseless and unwarranted. The problems created on my estate, the drainage problems, due to the obstructions and so forth, that were created by he and his wife, I feel that he's liable in that area, too.

Q. Do you think these damages flow from the March of 1984 incident, or is this part — (Interrupted)

A. Don't answer the question for me. Let me answer the question.

Q. Yes, ma'am.

A. Specifically, the destruction of the road, and so forth, and the obstruction of private and public drainages were done in December of 1983. That was done prior to March 24, 1984. However, clearly, Forest Bearb was helping his wife, Lois Bearb. And in my opinion, Lois Bearb not only wore the pants, but she wore the badge indirectly.

The defendant, Elton A. Arceneaux, was the sheriff of Acadia Parish in 1984. Plaintiff never met Sheriff Arceneaux until two years after the incident and her deposition is clear that he had absolutely nothing to do with the incident of March 23, 1984. Sheriff Arceneaux had assigned Bearb to the Civil Department of the Acadia Parish Sheriff's Office. Arceneaux stated that Bearb had never spoken with him about any problems with Mrs. Bearb's family property in St. Landry Parish and that Mr. Bearb had standing instructions as did all of Sheriff Arceneaux's deputies not to exercise any official duties outside of Acadia Parish, Louisiana. Sheriff Goss, the present sheriff of Acadia Parish, Louisiana was not associated in any way with the Acadia Parish Sheriff's Office in March of 1984.

It appears clear from the record that Forest Bearb was not acting under color of law as required by section 1983 and that the authority of the state was not exerted in this incident. *Delcambre v. Delcambre*, 635 F.2d 407 (5th Cir. 1981). Assuming for the sake of argument that Forest Bearb was acting under color of law, the actions of Forest Bearb did not give rise to a section 1983 action. Certain torts committed by state actors are not automatically section 1983 violations. In *Paul v. Davis*, 424 U.S. 693 (1976), the Supreme Court held that the stigmatizing actions by the local police chief in distributing handbills calling plaintiff an "active shoplifter" where he had been arrested but not convicted did not give rise to a section 1983 action. The court held that neither the damage to his reputation nor the invasion of his privacy was held to invoke a federal constitutional right. The Fifth Circuit has found constitutional deprivations of liberty where there have been additional injuries when defamatory words injure a person in a specific economic way, the "stigma plus" situation. *Marrero v. City of Hialeah*, 625 F.2d 499 (5th Cir. 1980). This case clearly lacks the "plus."

For the foregoing reasons the motion for summary judgment filed by the defendants is hereby GRANTED.

Counsel for mover shall submit a judgment in conformity with this ruling.

Opelousas, Louisiana, April 3, 1986.

/s/ John M. Shaw
JOHN M. SHAW
UNITED STATES DISTRICT JUDGE

U.S. DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
FILED
APRIL - 3 1986
ROBERT H. SHEMWELL, CLERK
BY Rvw
DEPUTY

COPY SENT
DATE 4-3-86
BY: Rvw
TO: Benson
Brandt
Barousse, Jr.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION

LOUELLA F. BENSON
VS. CIVIL ACTION NUMBER -4-2540
FOREST BEARB SECTION O

RULING

Now before the Court is the motion to dismiss the counterclaim of defendant Forest Bearb for failure to state a claim, filed by plaintiff Louella Benson. The motion has been opposed by defendant Bearb.

Having reviewed the memoranda submitted by both parties, this Court finds that defendant Bearb has sufficiently set forth a counterclaim against plaintiff in this case. Defendant has stated a claim for trespass at the very least. Therefore, plaintiff's motion to dismiss must be denied.

Accordingly, the motion to dismiss filed by plaintiff Louella Benson is hereby DENIED.

Opelousas, Louisiana, May 16, 1985.

/s/ J.M. Shaw
JOHN M. SHAW
UNITED STATES DISTRICT JUDGE

U.S. DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
FILED
MAY 17 1985
ROBERT H. SHEMWELL, CLERK
BY Rvw
DEPUTY

COPY SENT
DATE 5-17-85
BY: Rvw
TO: Benson
Brandt

6432 Montrose Street
Alexandria, Va. 22312
March 28, 1984

Sheriff Nelson Arceaneaux, Acadia Parish
P.O. Box 289
Crowley, Louisiana 70527

Dear Sir:

As I reported to Officer Gibson over the phone this week, Forest Bearb, one of your officers (and my sister's husband) came on my property in St. Landry Parish on Friday 23 and informed me that I had committed a forgery in Houston. When I begged Forest to tell me who, what, when etc. (because I have never committed any forgery or any crimes) he would only say "that lady in Houston", said they were "working on it" and assured me that I would be nailed, and made other defamatory untrue inferences about me.

Under the applicable provisions of the Freedom of Information and Privacy Act please make available to me copies of any and all information you may have pertaining to me Louella F. Benson or Louella M. Faul, including the name of "that lady" in Houston he referred to and a copy of the "forgery" he accused me of. It is my understanding that when Forest was confronted with this by someone else he responded that he did not know anything about it (since the incident on Friday, March 23). He also stated, I was informed, that "he told me he would slap me" if I stepped on my sister's property.

I was not on my sister's property but he came on my property to talk to surveyors I hired to do work on my land which I have inherited in one area and purchased in others. What gives Forest the right to flash his badge and a little black box (which he was wearing at the time) on my property in St.

Landry and to insult me verbally with untruths? Neither the prior surveyors (who aborted the efforts after contact by Bearb and their lawyer) nor the recent surveyors had any interest in the Bearbs, their stickers, or my sister's 4+ acres. Therefore, Forest's presence on my property to speak to the surveyors I employed to do work for me was unwarranted, as was the calls by he and/or his lawyer to the supervisors of these men. A trip home costs me about $1,000.00. I have a heart injury and do not take the problems created for me lightly in this areas. (What was the purpose of the little black box and provide any information obtained.)

How is it that Forest happens to known when I am at home when I have no contact with them whatsoever? What gives the Acadia Police (or any police) the right to be "working on it" as Forest told me when I am and always have been a law abiding citizen? The FOI request (and Privacy Act) request also extends to any area of government in which Forest or the Acadia Police may have been contacted pertaining to me, or any involvements in surveillance, controls, research.

While I had hoped that this letter would not have been necessary after the first encounter, the recent above-described incident leaves me no choice and I am certain you can appreciate the seriousness of the situation re the untrue defamatory accusation. I will demand my complete civil and constitutional rights in all areas and I fully intend to go on my property without police harrassment and to hire whoever I want to — to do whatever work I elect to do without Forest's presence or he and/or his lawyer's intervention. What regulation justified the Acadia Police to come in St. Landry Parish?

Your prompt attention would be appreciated. What justifies Forest or any police intervention in any area of my life?

Very truly yours,

/s/ Louella F. Benson
Louella F. Benson

Rc'd. 5-4-84
D.H. (illegible)
T. H. Zoumbreeher

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION

LOUELLA F. BENSON
VERSUS CIVIL ACTION NO. 84-2540, Section "O"
FOREST BEARB

REPONSE TO PLAINTIFF'S MOTION TO COMPEL
FOREST BEARB TO PRODUCE
SWORN AFFIDAVIT

Now appears Forest Bearb, through undersigned counsel, who responds that:

1.

No formal request for production and inspection of documents was served upon defendant.

2.

Although a rough affidavit was prepared by defendant, Forest Bearb, there was never typed and was discarded as useless by counsel for defendant since it did not contain specification allegations of facts.

3.

Because of the foregoing, there exists no sworn affidavit nor even the rough copy of same.

4.

Defendant would request, as a sanction of this court, an award of attorney's fees and costs for his being compelled to respond to this motion to compel since no request for production * * *

* * * *

UNITED STATE DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION

LOUELLA F. BENSON
VERSUS CIVIL ACTION NO. 84-2540, Section "O"
FOREST BEARB

CERTIFICATE OF SERVICE

I certify that the above and foregoing motion has been served upon Louella F. Benson, 6432 Montrose Street, Alexandria, Virginia 22312, by depositing same in the United States Mail, postage prepaid and properly addressed.

Lafayette, Louisiana, this 24th day of April, 1985.

/s/ Charles Brandt
CHARLES BRANDT

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
June 19, 1986

DONALD E. WALTER
DISTRICT JUDGE
UNITED STATES COURTHOUSE
MONROE, LA 71210

201 Jackson St., Room 201
Phone: 318/322 6230
FTS 943 6523

Ms. Louella F. Benson
6432 Montrose Street
Alexandria, VA 22312

Re: Louella Benson v. Glenn Alley, et al., No. CV 86-0489.

Dear Ms. Benson:

This office does not accept unsolicited correspondence or filings in cases pending in this Court. In the future, please direct all such filings to the Clerk's Office in Shreveport. This office will accept no further unsolicited mail concerning this matter.

Sincerely yours,

/s/ Donald E. Walter

DEW:ja
Enclosures

6432 Montrose Street
Alexandria, Va. 22312

Aug. 10, 1985

Magistrate Mildred E. Methvin
Federal Building, Suite 207
705 Jefferson Street
Lafayette, La. 70501

Dear Magistrate Methvin

Re: C.A. No. CV84-2540 - Section O
Benson vs. F. Bearb

In response to defendant's Answer to Plaintiff's Motion to compel him to sign authorizations to release his Medical Charts, I would like to inform the Court that on page 5 of defendant's answers to interrogatories, at No. 13, he responded "*None*" under oath when asked for names of physicians, including doctors, surgeons in physical area who treated him in the past ten years. However, defendant's wife described his obstructed arteries and bypass surgery in a letter to me in 1979, a copy of which was previously furnished with my pending motion and affidavit of December 1984 for examinations of the defendant.

Treatments in the past ten years, dates, and reasons for treatments, both prior to surgery and hospitalizations and treatments which I was told he had after surgery would be very important to reveal as well as any history of conditions, including mental anguish or causes for mental anguish. I seek the entire medical records from Dec. 1972 through Dec. 1983 since he suddenly blamed me in his counterclaim for heart attack which I could not have caused and for which he seeks over a million dollars, after I had to file suit due to his actions.

The defendant himself said under oath that he would introduce at the trial of the merits of the complaint and the

counterclaim, *"the entire Medical record from Dr. Mhayer and Lafayette General Hospital"* when I asked what he would offer at trial which would be relevant to the issues. See motion and attachments.

Since the defendant specified that the entire records were relevant and would be introduced at trial, he should be compelled to release them; not self-serving limitations of the records. Considering the unjustified demands of the defendant and his history of obstructed artries, etc. a ten year history is not unreasonable. The records are very important since the defendant responded *"None"* at No. 14 when asked for name of expert retained or to be retained by him for litigation and name of any medical practitioner who told anyone or implied that I caused him to suffer extreme mental anguish that in Dec. of 1983, he suffered a massive heart attack. (underscores mine).

Request that motion be granted and that sanctions be imposed upon defendant for not cooperating with discovery thus making this motion necessary, and that sanctions be imposed upon his counsel for advising him not to do so as per his letter to me of July 11, 1985 previously furnished. Letters show that I have been trying to obtain their cooperation since May 1985. Rule 37 F.R.C.P.

Respectfully,

/s/ Louella F. Benson
Louella F. Benson

cc:
Hon. R.H.Shemwell, Clerk
Charles Brandt, Esq.

6432 Montrose Street
Alexandria, Va. 22312

August 10, 1985

Magistrate Milded L. Methvin
Federal Building, Suite 207
705 Jefferson Street
Lafayette, Louisiana 70501

Dear Magistrate Methvin:

Re: C.A. No. CV84-2541 - Section O
Benson vs. Lois Bearb and Leslie Paul

Re Defendant's response to Plaintiff's Motion to Compel answer to interrogatory No. 25, I feel it is important to point out the folowing to the Court:

Interrogatory No. 25 was first sent to defendants on March 16, 1985. They refused to answer and filed "Renewed Motions" on March 25, 1985 with "affidavits" which discredits them and their "psychologist who never saw me." Revised interrogatory No. 25 was sent to defendants on June 1, 1985, and defendants responded that it was not relevant.

Counsel states in his answer that "since the Court has made the determination that the mental disease or defects suffered by the plaintiff is not relevant or material to the issues of this case, then the question posed by plaintiff concerning "treatments or interventions" planned for her would be irrelevant and immaterial also.

First, I wish to point out to counsel and defendants that the Court has not said that I suffer from any mental disease or defects, and second that the defendants, their counsel and their psychologist who never saw me, are the ones who have made this baseless determination for self-serving reasons.I object and take exception to ongoing publication and mis-repre-

sentations that I suffer from mental disease or mental defects and again inform them that I will seek damages.

Further, a review of Interrogatory No. 25 reveals that I did not ask what plans defendants had for treatments or interventions as counsel mis-represents. (The defendants have well demonstrated what their plans were since they have been trying to breach their agreements — seven months of delay with their frivolous motions for "mental evaluations" with ongoing harm to my property and violation of rights, not to mention years of delay in estate matters so that they could get what they wanted at their price.) My question is "have you, your attorney (or do you know if your allies in this case) ever arranged for or requested any sort of treatements or interventions for me, and if so when, what treatments or interventions were dispensed, and give the names of the doctors, programmers, agencies who authorized and/or dispensed any treatments or interventions and state for what "condition" and when "treatments" or interventions were dispensed."

Since the defendants were not entitled to have me examined by a psychologist or psychiatrist, they are certainly not entitled to have me treated. The proper professionals after proper hours of evaluations and objective scientific testing did not diagnose any mental disease or defects nor recommended any treatments, but these defendants are still publishing these awful defaming mis-representations and they refuse to answer interrogatory No. 25 to state if they arranged for treatments etc. as above-mentioned. My rights to be left alone, especially after having volunteered for testings and evaluations should be respected as well as * * *

* * *

* * * the psychiatric will I have made. Motives of anyone who would advocate any "treatments or interventions" for me have to be closely observed and subjected to open due process to determine or reveal personal gain by obstruction of my rights and/or revelations of personal problems by anyone who would take part in such violations.

On April 19, 1985, Forest Bearb said under oath, "I have heard in the past that you did receive some sort of mental health therapy, but I do not recall from whom I heard it." (Lapse of memory is convenient. Forest Bearb has made misrepresentations under oath. However, that is an interesting statement in view of the defendants' refusal to answer No. 25, especially when the answer should be at the tip of their tongue. Dr. Jonas Robitscher, psychiatrist, lawyer, and professor, warned in the Powers of Psychiatry, that "Psychiatry had developed so many treatment methods that almost anything could be done in the name of therapy.")

The defendants' answer that it is irrelevant and immaterial won't cut the mustard. Any treatments or interventions would be illegal, and unwarranted and the fact that they refuse to answer the question is very interesting in itself. The government does research on persons with such labels without their knowledge or consent, not to mention the detrimental effects of certain "treaments and interventions."

Should the defendants not be made to answer No. 25, that in itself would cause them to assume an unwarranted sense of power and control over me which is inconsistent with life, liberty and the pursuit of happiness and the right to own property and in violation of my civil, state and constitutional rights, including my rights to due process. My complaint seeks

to have the defendants enjoined from having anything to do with my life or property. I would like to have an opportunity to enjoy the property I paid a great deal for without the ongoing problems they are causing in my life and to my property. A close look at their own actions reveals that I was very much justified in seeking to have them enjoined.

Also, if they are not made to answer No. 26, it would set a frightening precedent as to one's freedom, liberty and property rights, unjustified "interventions, treatments" and denial of due process by relatives or people who would try to use a false mental label and "treatments" etc. for self gain in the future. We do not allow this in America and in fact we fight for the rights of others in countries where they violate such rights. Such silence would lead to more abuses.

I have this date received counsel's check for $150.00 in payment of the fine imposed upon the defendants for filing frivolous motions which w is due since June 19, 1985. I request that the Court grant my motion and again impose sanctions upon them for making this motion necessary. If the answers in No. 25 would be No, etc. it would have been a very simple matter to reply which they have refused to do. If the answer is Yes, etc. then they refuse to answer to protect themselves and others in further violations of my rights.

Respectfully,

/s/ Louella F. Benson
Louella F.Benson

cc:
Hon. R.H.Shemwell, Clerk
Charles Brandt, Esq.

Charles Brandt
Attorney at Law
300-B Steward Street
Lafayette, Louisiana 70501

Of Counsel
Steckler & Armentor, Ltd.
A Professional Law Corporation

June 12, 1986

The Honorable Donald E. Walter, Judge
U.S. District Court
P.O. Box 3107
Monroe, Louisiana 71210

Re: Louella F. Benson vs. Glenn A. Ally, Ph.D, et al
No: CA86-0489 "L"

Dear Judge Walter:

Enclosed please find copies of the defendants' response to plaintiff's motion for reconsideration of mental examination, response to motion to compel answers to interrogatories, a motion for extension of time, and a copy of a motion for more definite statement.

I have noted that the plaintiff has taken to writing you letters and as recently as June 9, 1986, has sent you a letter which she asks that you consider as part of a motion for reconsideration. While this informal procedure is sometimes tolerated by Courts, in the effort to accommodate the parties because of time constraints, it does not comply with my understanding of proper pleading practice. In addition, the plaintiff is proned to abuse this procedure and was previously advised by Magistrate Mildred E. Methvin to desist with her activities. This is due not only to the great volume of irrelevant correspondence that the plaintiff is proned to file, but

the voluminous attachments and exhibits that accompany these letters, which have no substantive relevance.

With best wishes, I am,

Very truly yours,

/s/ Charles Brandt
CHARLES BRANDT

CB:mrm

Enclosures (4)
1. Response to motion to compel answers
2. Motion for extenstion of time
3. Motion for more definite statement
4. Response to plaintiff's motion for reconsideration mental examination
5. Copy of Magistrate Methvin's letter

UNITED STATES DISTRICT COURT

Mildred E. Methvin
United States Magistrate

Western District of Louisiana
Federal Building, Suite 207
705 Jefferson Street
Lafayette, Louisiana 70501

(318) 233 5499
FTS 687 6651

August 27, 1985

Ms. Louella F. Benson
6432 Montrose St.
Alexandria, Virginia 22312

RE: C/A #84-2541 (O)
Benson v. Lois Bearb, et al

Dear Ms. Benson:

I am returning herewith two of your latest correspondences regarding this case. If you seek some action from the court, or wish to share further information regarding your case, I suggest that you you file the appropriate pleading in accordance with the Federdal Rules of Civil Procedure.

I will not consider future correspondence from you in connection with any pending motions in this case and once I have verified that such correspondence deals with substantive issues, it will be likewise returned to you without a full reading.

Thank you for your cooperation.

Yours very truly,

/s/ Mildred E. Methvin
MILDRED E. METHVIN
United States Magistrate

MEM:bb

cc:
Charles Brandt
Clerk of Court

6432 Montrose Street
Alexandria, Va. 22312

June 9, 1986

Honorable Donald E. Walter
U.S. District Judge
P.O. Box 3107
Monroe, La. 71210

Re: Benson vs. Ally, et al
CV86-0489-Secdtion L

Dear Judge Walter:

This letter is being sent in hopes that you will see fit to consider it along with my motion for Reconsideration of Minute Entry for Mental Evaluation forwarded under separate cover.

In reviewing the Court's rulings in CV 84-2540 and 84-2541 where the Judges denied the defendants' Motions for Mental Examination, I note that the Court said: (Motion Denied by Magistrate M.E. Methvin on 1/17/85.)

> "F.R.C.P. (35a) permits the court, for good cause shown, to order a party to submit to a physical or mental examination when the mental or physical condition of said party is in controversy. The courts have recognized that F.R.C.P. 35(a) requires an affirmative showing of both "good cause" and that the party's mental/physical condition is "in controversy". *Schlagenhauf* v. *Holder* 379 U.S. 104 (1964)."
>
> "Plaintiff seeks relief for the general damages of loss of income, humiliation and embarrassment.[1] Therefore, the burden is on *defendant, who is making an issue of*

[1] In subject case plaintiff is asking for damages for humiliation, embarrassment, for discrediting her in bad faith with a "long-distance label" to deny her due process and they knew such label is false.

Louella Benson's mental condition, to satisfy the "good cause" and "in controversy" requirements of F.R.C.P. 35(a) underscore mine.

"Defendant attempts to carry his burden by designating the alleged damages of humiliation and embarrassment as "psychic injuries". This does not amount to an "affirmative showing" that a party's mental condition is in controversy."

The second motion for Mental Evaluation by defendants was denied on 4/22/85 by the Magistrate and affirmed by Judge John M. Shaw on 6/19/85, "for the reasons stated in the Magistrate's rulings." The Court said:

"On March 26, 1985 defendants filed this renewed motion to require Louella Benson to submit to a mental exam under F.R.C.P. 35(a). In support of a "good cause" and "in contr versy" finding, reasons are stated as follows:

Defendants *feel* the plaitniff does not have the mental capacity to proceed with this suit. Second, defendant will assert as a defense to this claim, that the petitioner is suffering from a mental condition known as schizophrenia, paranoid type. (emphasis added).

Clearly, these allegations fail once again to meet the "good cause" and "in controversy" requirements of F.R.C.P. Rule 35(a) . . . My reasoning remains unchanged."

I am aware that the subject ruling for a different suit but I do not feel that the defendant, E.J.Faul, who is seeking this mental evaluation has shown good cause and I expressly stated in my pleadings that I was not placing my health in controversy. The second ruling of the Court above-mentioned was after the Bearbs et al had presented Dr. Glenn A. Ally's

report based on the "sworn statements" which were not sworn to before two weeks after Dr. Ally's report with one exception as explained in my motion. E.J. Faul's affidavit was also sworn to after Dr. Ally's report and it too is replete with untruths and hearsay.

As to E.J. Faul's Motion for Mental Exam, no statementes or affidavits were furnished, simply a one page motion and a one page memo by his attorney. I note that in the Motion, he states that the examination is to "determine whether she is suffering from any neurosis, or psychosis, and if so, to what extent, for the reason set forth in the attached memorandum." However, in the estate suits mentioned on page 1, not E.J. Faul, but the Bearbs et al (who are trying to get plaintiff's property as proven by the stipulation letter forwarded to the Court,) said "plaintiff is suffering from schizophrenia paranoid type", contention of defendants that the allegations which have been made by plaintiff are a direct and a consequential result of the mental condition of the plaintiff and not the result of any activities by defendants."

E.J. Faul "wants to determine whether she is suffering . . ."; Lois F. Bearb et al represented that "plaintiff *is* suffering from schizophrenia paranoid type . . ." E.J. Faul is not a defendant in CV84-2540 or CV84-2541. See attachment 1, Opposition to Mental Evaluation. Lois F. Bearb et al paid a psychologist who has never seen nor talked with me to label me with the most serious of diagnosis which is in total violation of accepted clinical procedures, to discredit me so that they could deny me due process and cover up their actions and fraudulent scheme, trick me into signing the partition and taking losses and then trying to get the property, after years of harrassment, altering drainages and all the money I have out. To cover up the actions of Lois F. Bearb et al, their fraudulent scheme, and their breaking all of the rules

by having me labeled unseen etc., E.J. Faul states in support of psychiatric examination "Plaintiff has apparently placed her mental condition in controversy by alleging that defendant, E.J. Faul has defamed her by alluding to a mental illness."

The mental evaluation came about after I had to file suit for breach of contract, altering drainages, lack of access and deprivation of rights; as the Court said "the burden is on defendant, *who is making an issue of Louella Benson's mental condition* to satisfy the "good cause" and in controversy". I have not place my health in controversy but *they* are still trying to place my health in controversy with distortions of what the case is all about after they broke all the rules required prior to making such a diagnosis. Lois F. Bearb et al — in bad faith and to cover up their fraudulent actions — have portrayed me as a s.p., when in fact, they, like E.J. Faul knew since 1981 that I had volunteered for objective scientific tests and evaluations (after meeting police doctors in Cardiac Care and after a M.I. had been ignored) and that I had such objective evidence that I do not have the mental problems, and that no treatments were recommended by doctors who fully tested and evaluated me.

E.J. Faul has not shown good cause. In fact, his threats in 1981 that he knew a doctor who would help him put me in an institution if I came to Lafayette during a phone call the same year he wrote his letter of plans to buy the estate (previously submitted) and his confinements for threatening to blow people's brains out and alcohol addiction, are good causes to deny his motion. They knew what the truth was about my state of mind before they conspired for the long-distance label. They are looking for malicious untruths and I beg the Court to protect me from their on-going abuses. Since they could pay a doctor to label me unseen, they can

pay one to protect the other doctor and themselves while they and the state have already started taking over my property, which property I paid $5,000. per acre for, and which they are unquestionably trying to obtain. To accomplish this they have represented that I am out of my mind, knowing they were telling untruths, they lied under oath, which I have proved including in the case of E.J. Faul, they have abused the process, contacted my witnesses without regard for the system, they have denied discovery, and once more when they are asked the hard questions, they sit on the interrogatories and request another "mental evaluation". (See *Bowen vs. City of New York* for high court ruling on secretive conduct.)

It amounts to a mental evaluation to own one's property and a mental evaluation instead of due proces and an opportunity to bring witnesses and evidence. It is so true that justice delayed is justice denied. While they obstruct the system and refuse to answer questions within time allowed as they did in the other cases, E.J. Faul filed for mental evaluation to conceal their actions, as well as his. When I had to file suit in the other cases, Lois F. Bearb et al and Forest Bearb's answer was to request mental evaluations which the Court saw through and turned down. A visit with E.J. Faul's paid doctor would make their long-distance label stick and their actions would be concealed forever. Is E.J. Faul's doctor another police doctor, or is he the one who E.J. said would help him put me in an institution?

Forest Bearb had also filed a counter claim against me after I had to take him to Court. Why was I not told about the false forgery rumor for 20 yrs. but after I bought property which Lois F. Bearb still wants, her police husband Forest Bearb, came on my property from Acadia to St. Landry and accused me falsely of forgery, said they were working on it and that I would be nailed, all in the presence of witnesses.

When he was cornered he said I was crazy and got Ally's long-distance label to protect himself. No one has been able to come up with any forgery because this plaintiff has never committed any crimes — she is in fact, the victim of fraud and forgery which is another reason why she should be protected from the unconscionable actions of these defendants. Forest Bearb wore a badge and had a walkie-talkie or little black box.

A lawyer I hired told me that before I hired him Forest Bearb's lawyer had consulted with him on how to defend the claim and that he had come up with the idea that I had caused him to suffer a heart attack and mental stress to try to make me drop the claim. The counter claim alleged extreme mental stress and a heart attack which they knew was untrue because I was not around these people and their 1979 letter to me shows that there were no problems between us before I insisted on bidding on what his wife wanted and still wants inspite of their tricking agreements. Forest Bearb had had a by-pass in 1979. His pleading clearly would have required mental and physical evaluations and I filed for both with an affidavit in Jan. 1985, but the motion was never heard and they *completely* denied me discovery. Forest Bearb had the authorizations to sign for months and letters begging him to release records. He admitted he had no doctors, or experts who would say such a thing. In Feb., 1986, Lois F. Bearb said under oath that the claim against me had been dropped but that was just another lie which prevented me from filing a motion to dismiss I tried to file, or to question her under oath. Forest Bearb said he would slap me if I went on his wife's property, Leslie Faul threatened me with a post-

hole digger if I went on his property. However, they allow people on my property. My house is broken into, and there are new wires, and my land is contaminated and flooded.

Respectfully,

/s/ Louella F. Benson

cc:
Charles Brandt, Esq.
Clerk of Clerk

6432 Montrose Street
Alexandria, Va. 22312

May 7, 1986

Hon. Robert H. Shemwell, Clerk
U.S. Western District
106 Joe D. Waggonner Federal Bldg.
500 Fannin Street
Shreveport, Louisiana 71101

Re: Civil Action No. 86-0489
Section L
Benson vs.Ally et al

Dear Sir:

On my response and opposition to psychiatric examinations mailed May 6, I did not want to include the results of complete evaluations for several visits and results of psychological testings, (all of which I volunteered for in 1981,) to the Court only, without having permission to do so. It occurred to me today that I can put quotes on pertinent points since Dr. Jonas Robitscher, lawyer, psychiatrist, and professor at Emory University said that "this is the kind of objective evidence that courts accept uncritically."

The tests revealed that "On the intelligence test, Mrs. Benson functions at the Bright Average level. On the Comprehensive subtest (a test relating to judgment) and Digit Span (a test relating to concentration), she scores at a Superior level." Both the tests and full evaluations revealed that I am "not psychotic" — "No psychosis" and this was also revealed in the Rorshach test which the doctor said "gets at unconscious phenomena and defenses would appear." Although under stress at the time, the doctor said that my work on the performance test "scored within the Average range."

The doctor said that depression was noted but that it was "situational depression," "not psychotic and not even neurotic depression" and no treatments were recommended. As to personalilty trait, the doctor found that she "is given to erudite and wordy explannations in her quest for doing things correctly", a doctor said he wishes all professionals had this trait, and that I have the potential to be a complete surgeon or an accountant.

It must be remembererd that Ewell J. Faul has not seen me since 1975, (and for the most part I have not been around my family for years). These matters were only brought up and engineered by my family in their scheme because I had the money to purchase a part of my parents' estate with their consent and which they are trying to get back. It must be remembered that Dr. Ally has never seen me or even talked with me and he had no right to make that diagnosis, after I filed a drainage and breach of contract suit. What my family has placed me through since 1981 is unconscionable. From the above-mentioned facts I can prove, they only stand to lose. I am entitled to my good name and to get these people out of my life. Why were "affidavits' not only not submitted, but denied years ago. What about Ewell J.Faul's problems and tract record? This too must be considered in view of efforts to "railroad" me for very selfish reasons.

Sincerely,

/s/ Louella F. Benson
Louella F. Benson, pro se

cc:
Hon. Donald E. Walter
Charles Brandt, Esq.

Since the defendants have misrepresented to the court in efforts to take advantage of me - that I am insane, and since I have scientific evidence that this is very untrue and they knew it was untrue, I feel it is logical for me to tell the Court. See Supplemental Letter of 2/21/86 for motives.

CERTIFIED - RETURN RECEIPT REQUESTED

Also requested, answers
via letters to Counsel
on May 6, 1986 and
via certified ltr of Aug. 1986
May 6, 86 ltr to Clerk on docket

6432 Montrose Street
Alexandria, Va. 22312

August 29, 1986

Charles Brandt, Esq.
300 B Stewart St.
Lafayette, La. 70501

Dear Mr. Brandt, Re: C.A. 86-0489

I note in your motion for summary judgment as a matter of law recently received in the above case, you offered in support of this motion, "pleadings, *documents* and *affidavits* filed herein". (underscore mine.)

The only affidavit and report attached to my copy of your motion and brief (consisting of 9 unnumbered pages) was the affidavit of Glenn Ally of Aug. 18, 1986, and his "report" of March 6, 1985.

Please copy me forthwith with copies of anything at all which you made known to the Clerk or the Judge and/or which the defendants made known, and while you are at it, forward copies of anything you or the defendants made known to the Clerk or the Judge in support of your motion for summary judgment in CV84-2540 with full prejudice against my rights and at my costs, without a hearing, inspite of my evidence.

By copy of this letter I am asking the Clerk to see that you comply with same before any rulings are made to allow me to rebut anything at all offered, prior to any rulings.

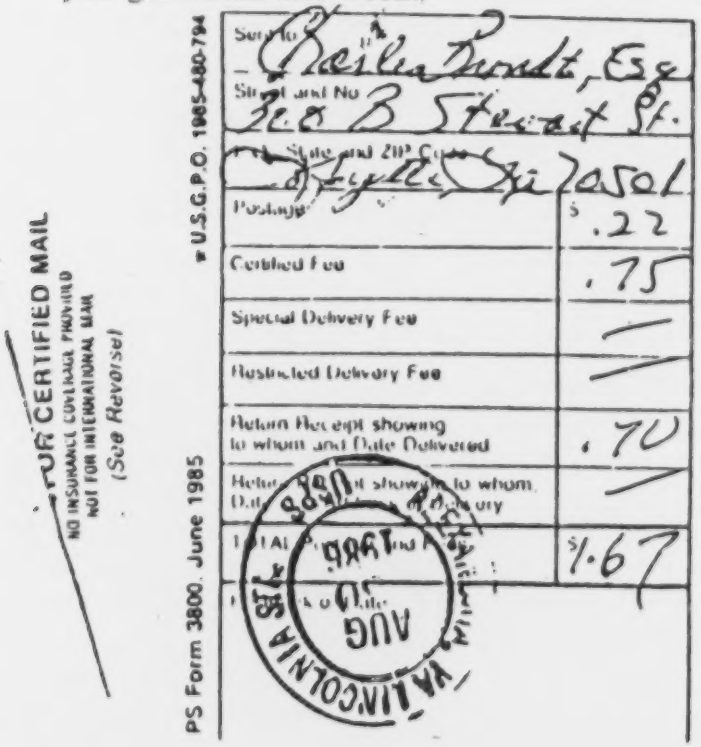
I would appreciate it if you would number your pages.

/s/ LFB
Louella F. Benson, pro se

CC: Honorable Robert H. Shemwell

PS I am in the process of responding to your Motion for Summary Judgment recently received and which should be in the hands of the Clerk very soon, if not received on the next business day.

I would ask you again to have the defendants answer the interrogatories sent to you since April 19, 1986 and thereafter. I do not call your offices because of the valid reasons documented in my recent certified letter to you and evidenced in the record of CV84-2540 and 2541. If you have any questions, please write and I will reply. (I have been sick since June 2, and do not have the energy to work as fast as I used to in replying to all the matters you generated last week.)



6432 Montrose St.
Alexandria, Va. 222312

Aug. 25, 1986

Charles Brandt, Esq.
300 B Stewart St.
Lafayette, La. 70501

Dear Mr. Brandt:

I do not call your offices for the reasons documented in my recent certified letter to you which in my opinion constitutes good cause. If you have any questions, please write and I will respond and we then have a written record of what has transpired. You have placed me in this position.

I must ask that you stop harassing my home to pry and find out things as when my husband is going into the hospital. And you learned I was again telling the truth.

Am again asking you that you have your clients answer the overdue interrogatories, including Dr. Ally re the long distance label the day after the night of our famous telephone conference and other questions posed to him.

Very truly yours,

Louella F. Benson, pro se

6432 Montrose Street
Alexandria, Va. 22312

January 29, 1987

Charles Brandt, Esq.
300 B Stewart Street
Lafayette, La. 70501

Date
January 29, 1987

CV84-2540
CV84-2541

Dear Mr. Brandt:

Please copy me with the pre-trial memo you filed in March 1986 in CV84-2540, and include any attachments you finished.

As to the pre-trial memo you filed in March 1986 in CV84-2541, which you recently sent to me after I learned of it from your recent pre-trial *supplement* in that case, you refer to attachments in the memo with which you did not copy me. Please favor me with those copies. Also, the March 1986 memo you recently furnished consists of 18 unnumbered pages with blank sheets inserted. I request copies of any information which you made available to the Courts. I would appreciate receiving this information as soon as possible. Please furnish a copy of the map you mentioned in your supplement in CV84-2541.

By copy of this letter, I am asking Mr. Barousse, to copy me with his letter in the record of 3/25/86, which was previously requested, and copies of any other information made available to the Courts other than that which I was copied with. I refer only to anything which may not have been furnished to me, such as was the case with your letter of 3/25/86, your reply brief (until after months and after I obtained it from the Clerk).

Very truly yours,

/s/ Louella F. Benson
Louella F. Bensonm, pro se
703 256 7595

cc:
HYomer Ed Barousse, Esq.
Clerk, Fifth Circuit
Honorable Gilbert Gancheau

6432 Montrose Street
Alexandria, Va. 22312

May 6, 1986

Honorable Robert H. Shemwell
Clerk, U.S. District Court
106 Joe D. Waggonner Federal Building
500 Fannin Street
Shreveport, Louisiana 71101

Dear Sir: Re: No. 86-0489
Benson vs.
Glenn A. Ally, Ph.D. et al

The attached copy of a 1979 letter from Lois F. Bearb should have been attached to my rebuttal affidavit of Lois F. Bearb's 1985 affidavit in Exh. 1, of my Opposition to mental evaluations of this date. It shows that there were no problems before I insisted on bidding on the improvements of my deceased parents. It also shows that her husband's heart problems were due to obstructed arteries, and prior to 1984.

By copy of this letter I am asking counsel for the defendants to see that the defendants answer my interrogatories to defendants as per the rules of F.R.C.P. and within the 15 day period. While I oppose any psychiatric examinations for the valid reasons stated in my response, I would certainly answer interrogatories from the defendants or allow Mr. Brandt to take my deposition. (Interrogatories were mailed to counsel on April 19, 1986.)

Sincerely yours,

/s/ Louella F. Benson
Louella F. Benson, pro se
6432 Montrose Street
Alexandria, Va. 22312
703 256 7595

cc:
Honorable Donald E. Walter - with attach.
Charles Brandt, Esq. w/attach.

6432 Montrose St.
Alexandria, Va. 22312

June 27, 1986

Hon. Robert H. Shemwell, Clerk
U.S. Western District
106 Joe D. Waggoner Building
500 Fannin Street
Shreveport, La. 71101

Dear Sir:

Re: Louella F. Benson vs.
Glenn A. Ally, et al
CV 86-0489 - Section L

Enclosed are an original and two copies of plaintiff's motion for correction of the memorandum ruling and order filed with Clerk on May 9,1986, in above case. Please return a copy to me marked filed in the attached stamped envelope.

Sincerely yours,

/s/ Louella F. Benson
Louella F. Benson, pro se
703256 7595

cc:
Charles Brandt, Esq.
Homer Ed Barousse, Esq.

Note to Mr. Brandt,

This is to remind you to also have E.J. Faul answer the second set of interrogatories sent to you.

LFB

6432 Montrose Street
Alexandria, Virginia 22312

August 14, 1986

Charles Brandt, Esq.
300 B Stewart Street
Lafayette, La. 70501

August 14, 1986

Dear Mr. Brandt:

Re: L.F. Benson vs.
Glenn A. Ally, PhD. et al
CV No. 86-0489

On this date I have received your certified letter and the answers to your questions are as follows:

I would remind you that your clients have yet to admit or deny my pleadings which were first filed on March 6 & March 14, 1986, and amended per their request as filed on May 27, 1986.

Also, if you will recollect, on April 19, 1986, I sent interrogatories to your clients, Glenn A. Ally, E.J. Faul, Lois F. Bearb and Izena Kidder and instead of answering you filed for a "mental evaluation" in behalf of E.J. Faul without statements or affidavits furnished to me. (Should the pleadings only be the reason for such mental evaluation I would remind you of the motion and affidavit I filed in Jan. 1985 to have Forest Bearb evaluated in view of his now famous "counterclaim" for which he denied discovery upon your advice, not to mention the fact that I expressly stated in the pleadings I was not placing my health in controversy — there is evidence of the fraudulent scheme in CV84-2541) and evidence that I have been discredited, defamed and denied due process in CV84-2540. Although my motion to evaluate Dep. Bearb was pending for seven months it was never heard and he had placed his health in controversy. If you will recall, I reminded you in writing to have your clients answer interrogatories but instead you obtained an order for "mental evaluation". It is you and the defendants who delayed for many many months in CV84-2540 and CV84-2541 (both cases related to subject case) with frivolous motions to have

me mentally evaluated inspite of their knowing that this is unwarranted and to protect themselves, and in fact they are doing the same thing in subject case. My motion to compel them was denied and the appeal is pending. My motion to have your clients admit or deny on the basis of my second amended filing as per your demands should have been heard on Aug. 8.

After you managed to delay for self-serving reasons of the defendants and obtained an order to have me mentally evaluated you sent interrogatories for me to answer forthwith. (I am perplexed — after having volunteered for complete evaluations and testings and being the only one in the group who can prove that I do not have the mental problems and which was known by your clients, they broke all the required rules for making such a mental diagnosis and paid a doctor who never saw me to make a "long-distance label" and it would appear that they would want me mentally evaluated and treated differently before I can exercise my constitutional due process rights not to mention E.J. Faul's threats that he knew a doctor in Lafayette who would help him put me in an institution if I came to Lafayette — I have news for E.J. Faul et al-and any doctors I elect not to see — defendants' objectives are malicious bad faith but in America we cannot ignore objective scientific evidence (Those who do can be prepared to face due process at all levels.)

You want me to answer certain questions to learn how much I know of abuses before your clients answer such questions as who has been in the business of treating me for "mental illness" when in fact the proper professionals who fully evaluated and tested me did not recommend treatments for anything. Your clients do not want to answer questions which have criminal and civil consequences. You have asked in behalf of your clients for answers to such questions as the names of the "fathers" of my children and the names of my

children and their addresses when they know quite well I have only one child who was born out of wedlock years ago, and for which they have harassed me for years and are still harassing as to the heir defendants in their efforts not to let me come back to the property of my parents which I purchased with their consent and which they are trying to obtain. At some point some court in this land will stop the harassment. Your clients have absolutely no business in my life or my health; my claim is because they broke all the rules prior to making such a diagnosis and their fraudulent scheme all of which I can prove.

As you know I have not been around those defendants for many years, I have been self employed for over ten years and prior to that I managed to earn a living doing office work inspite of their harassment, false charges and accusations of forgery for many years which was kept secret from me and which you and everyone else knows is untrue because you did your own investigation and would not give me the results other than to tell me there was no forgery when I asked you after having given you the names of my employers in Houston. Not only I said under oath that I had never committed forgery and that I had never said to anyone that I had committed forgery but I tried to move the case to Houston where Bearb said the forgery had taken place and your clients refused. Dep. Bearb himself backtracked and squirmed when confronted under oath and denied saying that although he said it in the presence of witneses which I have been denied the right to call but he obtained summary juidgment with full prejudice against my rights which is on appeal. Neither did I have a chance to prove that Bearb lied under oath. After I obtain answers from the defendants I will answer the questions which you have a right to have answered but as far as unrelated Spanish Inquisition in areas where they do not belong and which are unrelated, they can follow the advise

you gave your clients in the letter you wrote me in 1985 and forget about it until we reach the Supreme Court to learn if the wife of a Jew has less rights than a cop or his wife who is still trying to obtain my property, or less rights than the likes of E.J. Faul who was jailed for threats in 1985, previously institutionalized for alcoholic problems as was Izena Kidder for drug (prescription) addiction and who conspired with others in 1985 after denying me affidavits years ago, all of which the Bearbs and Faul defendants were trying to use in 1985. I would again remind you to remind your clients and their paid doctors or any doctors or medical people and the cops to respect my rights and stay out of my life. Other than for Court matter there will never be any contact between us, I can assure you. (I am the victim of fraud and forgery.)

I would like to take this opportunity to ask you to have your clietns admit or deny my pleadings; to answer the interrogatories sent on April 19, 1986, to answer the second set of interrogatories sent to E.J. Faul on June 10, the second set sent to Izena Kidder on June 11, and the subsequent interrogatories I sent to Nell C. Faul, Melody Faul, Malcolm Bearb, Lois Bearb and to Leslie Faul. I would especially like to know also, what chemicals were used on my land because I have been sick and I would like to know of any involvement by any government agency.

I do not call your office any more because as you know when I did call you used every opportunity to try to make me look crazy; I refer you to your letter to Judge Shaw in March 1985 where you lied and distorted the results of our now famous telephone conference. Your letter and my response proves my point all of which is in the record. You will recall the "long-distance" label by Ally* was the day after

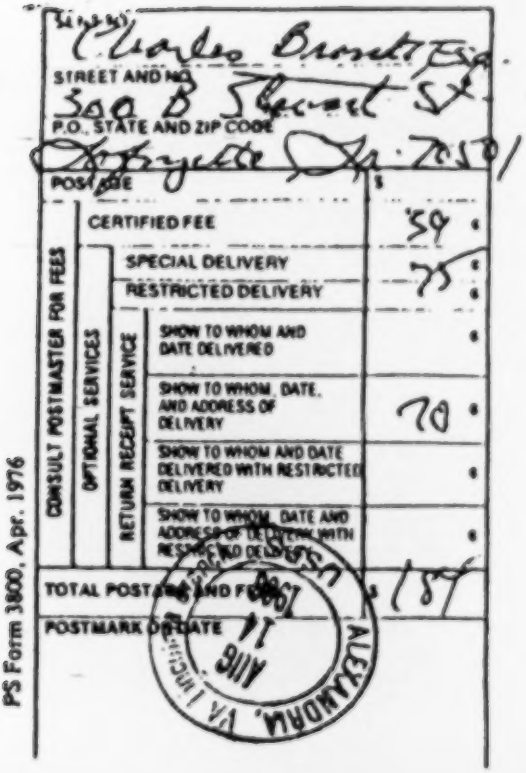
*How about a few answers from the Dr. Ally or is the name of the game to protect the professional? My position is that the constitution dose not afford more protection to a professional than to a non-professional.

the night of the "settlement conference.". Your delaying in this case is very helpful to the defendants in other cases. There is too the incident when I had my brother's maid take a message after I dialed your offices and you turned around and listed her as a witness to say that I harassed Lois Bearb. The record shows that I called your office many times and you did not leave the information needed with your secretary and in fact, I wrote several times in efforts to accommodate you in setting dates when you wanted to depose my witnesses.

I would remind you that the Bar has recently issued a caution to attorneys for certain practices.

Very truly yours,

/s/ Louella F. Benson
Louella F. Benson, pro se



UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION

LOUELLA F. BENSON,
Plaintiff — Civil Action No. CV 86-0489

VS.

GLENN A. ALLY, Ph.D. et al — SECTION L
Defendants

SECOND SET OF INTERROGATORIES TO DEFENDANT E.J. FAUL

To:

E.J. Faul
Through his attorney of record:

Charles Brandt, Esq.
300 B Stewart Street
Lafayette, La. 70501

Second set of Interrogatories are being sent for Defendant E.J. Faul through his attorney of record, to be answered fully in writing by him and under oath within (15) days in accordance with F.R.C.P.

1. Give the names and addresses of the people to whom you have represented verbally or in writing that this plaintiff is mentally ill or schizophrenia, paranoid, or that she is dangerous, and state the date that such statements were made by you.

2. In the proceedings in estate matters where you sued pltf. following your letter of October 1981, did you or your attorney ever file a motion for no rights, and did you or anyone you know give a written statement or affidavit

concerning this plaintiffs state of mind at any time, for any reason, other than the affidavits and statement filed with Renewed Motion to require mental exam on March 26, 1985, and if so, please give the names of the affiants, or persons who signed such documents, state the uses made of same and provide copies.

3. Have you ever discussed this plaintiff with Dr. William P. Cloyd, Jr. and has he ever given a verbal or written statement concerning this plaintiff, and if so state for what purpose and furnish a copy of same.

4. How long have you known Dr. William P. Cloyd, have you ever been treated or examined by him.

5. State the names of any doctors who may have participated in the "book case" you referred to in 1981 re this plaintiff during our telephone conversation, and list the names of any doctor you or your attorney have contacted re plaintiff and list all material furnished to any doctor for any reason.

6. Other than the "report" of Dr. Ally, have you or your attorney, or anyone you know, ever submitted any report by any doctor concerning this plaintiff, and if so state the name of the doctor or psychologist, state to whom it was furnished and provide plaintiff with copy of same.

The above interrogatories are continuing and the party responding to them is under the duty to supplement his responses to include information thereafter required.

/s/
Louella F. Benson, pro se
6432 Montrose Street
Alexandria, Va. 22312
703 256 7595

I certify that the original and a copy of the foregoing are being mailed via first class mail postage pre-paid to Charles Brandt, Esq. at 300 B Stewart St., Lafayette, La. 70501, who is counsel for defendants on this the 10th day of June 1986.

/s/
Louella F. Benson, pro se

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION

LOUELLA F. BENSON,
Plaintiff — Civil Action No. CV 86-0489

VS.

GLENN A. ALLY, Ph.D. et al — SECTION L
Defendants

INTERROGATORIES TO DEFENDANT
NELLIE C. FAUL

To:

NELLIE C. FAUL
Through his attorney of record:

CHARLES BRANDT, Esq.
300 B STEWART STREET
LAFAYETTE, La. 70501

Interrogatories are being sent for Defendant Nellie C. Faul through her attorney of record, to be answered fully in writing by her and under oath within (15) days in accordance with F.R.C.P.

1. Please state your name, address, date of birth, marital status, social security and driver's license number.

2. Have you obtained training in any area of the social sciences and if so please explain and state the subject upon which you wrote your thesis.

3. State your place of employment now and during the past ten years and explain the nature of your work.

4. State if you have ever obtained help or counseling or treatment in the mental health area and if so when and what for.

5. State as to whether or not you have participated in a "book case" re this plaintiff and if so under what authority and furnish the names of the professionals who were involved, along with a copy of any publication.

6. Have you ever taken part in any case study re this plaintiff, including if plaintiff's name was deleted and if so, please state where plaintiff can obtain a copy of such a "study".

7. Have you ever received any grants from the government, university or anyone to do any research or studies and if so, please state from what agencies or companies etc., and the subject matter involved.

8. How long has it been since you have seen this plaintiff?

The above interrogatories are continuing and the party responding to them is under the duty to supplement his responses to include information thereafter required.

/s/
Louella F. Benson, pro se
6432 Montrose Street
Alexandria, Va. 22312
703 256 7595

I certify that the original and a copy of the foregoing are being mailed via first class mail postage pre-paid to Charles Brandt, Esq. at 300 B Stewart St., Lafayette, La. 70501, on this the 17th day of July 1986.

/s/
Louella F. Benson, pro se

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION

LOUELLA F. BENSON,
Plaintiff — Civil Action No. CV 86-0489

VS.

GLENN A. ALLY, Ph.D. et al — SECTION L
Defendants

INTERROGATORIES TO DEFENDANT
MELODY FAUL

To:

MELODY FAUL
Through his attorney of record:

Charles Brandt, Esq.
300 B Stewart Street
Lafayette, La. 70501

Interrogatories are being sent for Defendant Melody Faul through her attorney of record, to be answered fully in writing by her and under oath within (15) days in accordance with F.R.C.P.

1. Please state your name, address, date of birth, marital status, social security and driver's license number.

Please state what your major was in college and when you graduated.

3. Please state where you are employed now and where you have worked in the past ten years.

4. Please list the addresses where you lived in New York and Denver or in any other city.

5. Rumor has it that you were very interested in one of the married teachers at school – in view of the fact that you have tried to discredit me without justification I feel I have a right to explore your character – please forward the name and address of the teacher's wife and children.

6. Who did you live with in Denver?

7. Have you given up the drug culture you told me about in 1977, did you obtain treatment for drug addiction and/or have you ever been under the care of a mental health professional for any reason, either prior to or since you last saw me in Feb. of 1977.

8. Are you aware that I do not want you in my life or on my property for any reason in view of your actions?

The above interrogatories are continuing and the party responding to them is under the duty to supplement his responses to include information thereafter required.

/s/
Louella F. Benson, pro se
6432 Montrose Street
Alexandria, Va. 22312
703 256 7595

I certify that the original and a copy of the foregoing are being mailed via first class mail postage pre-paid to Charles Brandt, Esq. at 300 B Stewart St., Lafayette, La. 70501, on this the 17th day of July 1986.

/s/
Louella F. Benson, pro se

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION

LOUELLA F. BENSON,
Plaintiff — Civil Action No. CV 86-0489

VS.

GLENN A. ALLY, Ph.D. et al — SECTION L
Defendants

SECOND SET OF INTERROGATORIES TO DEFENDANT LOIS BEARB

To:

LOIS BEARB
Through his attorney of record:

Charles Brandt, Esq.
300 B Stewart Street
Lafayette, La. 70501

Second set of interrogatories are being sent for Defendant Lois Bearb (and Lois Bearb as executrix of estate of Forest Bearb) through her attorney of record, to be answered fully in writing by her and under oath within (15) days in accordance with F.R.C.P.

1. Other than Dr. Ally's "long-distance label" and the "affidavits" which you solicited in 1985, did you or your late husband discover any other written information re this plaintiff, and if so who did you make it available to and for what reason, and when.

2. If you have discovered any other written information as in No. 1, would you kindly make it available to plaintiff forthwith.

3. Other than for the "Renewed Motion" and appeal in 1985, state any other way in which you or anyone have used Dr. Ally's report and "affidavits" and give names of any party to whom you or your counsel have made such information available.

4. List the names of the people to whom you have represented that I have a mental problem and/or to whom you gave any affidavit. also furnish names and addresses of all parties who told you that I had committed forgery and when you were told of such a thing.

The above interrogatories are continuing and the party responding to them is under the duty to supplement his responses to include information thereafter required.

/s/
Louella F. Benson, pro se
6432 Montrose Street
Alexandria, Va. 22312
703 256 7595

I certify that the original and a copy of the foregoing are being mailed via first class mail postage pre-paid to Charles Brandt, Esq. at 300 B Stewart St., Lafayette, La. 70501, on this the 17th day of July 1986.

/s/
Louella F. Benson, pro se

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION

LOUELLA F. BENSON,
Plaintiff — Civil Action No. CV 86-0489

VS.

GLENN A. ALLY, Ph.D. et al — SECTION L
Defendants

INTERROGATORIES TO DEFENDANT
MALCOLM BEARB

To:

Malcolm Bearb
Through his attorney of record:

Charles Brandt, Esq.
300 B Stewart Street
Lafayette, La. 70501

Interrogatories are being sent for Defendant Malcolm Bearb through his attorney of record, to be answered fully in writing by him and under oath within (15) days in accordance with F.R.C.F.

1. Please state your name, address, date of birth, marital status, social security and driver's license number.

2. State the name and address of your employer and where you have been employed during the past ten years and explain fully any self employment.

3. Have you ever done any work for the government or the law enforcement agencies and if so when and explain fully.

4. On Feb. 5, 1986, in CV 84-2541 & 2540 when I deposed your mother you appeared and disrupted the proceedings with portable equipment, state what purpose or purposes this was for, and where and when did you obtain this equipment.

5. Have you in any way ever interfered with any work I was trying to have done on my property.

6. Are you aware that I do not want you in my life or on my property for any reason whatsoever in view of your efforts to discredit me without justification to help your parents deny me due process and in their efforts to obtain my property.

7. Have you ever obtained help for alcoholic problems or any other problems.

The above interrogatories are continuing and the party responding to them is under the duty to supplement his responses to include information thereafter required.

/s/
Louella F. Benson, pro se
6432 Montrose Street
Alexandria, Va. 22312
703 256 7595

I certify that the original and a copy of the foregoing are being mailed via first class mail postage pre-paid to Charles Brandt, Esq. at 300 B Stewart St., Lafayette, La. 70501, on this the 17th day of July 1986.

/s/
Louella F. Benson, pro se

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION

LOUELLA F. BENSON,
Plaintiff — Civil Action No. CV 86-0489

VS.

GLENN A. ALLY, Ph.D. et al — SECTION L
Defendants

INTERROGATORIES TO DEFENDANT
LESLIE FAUL

To:

LESLIE FAUL
Through his attorney of record:

Charles Brandt, Esq.
300 B Stewart Street
Lafayette, La. 70501

Interrogatories are being sent for Defendant Leslie Faul through his attorney of record, to be answered fully in writing by him and under oath within (15) days in accordance with F.R.C.P.

1. Please state your name and address.

2. In view of the fact that I was exposed to chemicals on the farm and I am still sick, please state:

a) Did you ever give anyone permission to use chemicals on the farm and if so when and who and why

b) What chemicals were used and from whom were they obtained

3. The Waste Management Co. you mentioned was trying to obtain the farm, was it a private or public company and please give full name and address.

4. Other than the "report" by Dr. Ally, have you or your attorney ever submitted any report by any doctor concerning this plaintiff, and if so state how it was obtained, the name of the doctor or psychologist, state to whom it was furnished and provide plaintiff with copy of same.

5. Was Dr. Ally's "report" and/or any affidavits, statements used in any way since the "Renewed Motion" and appeal in 1985, and if so please explain any uses of same by you or your attorney in his representation of defendants, and when, and what case.

6. Please state if any new affidavits re plaintiff have been written for this case and if so by whom and for what purpose?

7. In May of 1984, on the day after I hand carried a letter to the Sheriff in Crowley La., re Forest Bearb, I was arrested in Sulphur after being under surveillance by troopers who were looking for drugs and weapons and I was brutilized, did you in any way have anything to do with this intervention, and if you have ever personally ever intervened in mylife for "treatments", please state when, for what condition, and give the names of the doctors, govt. agency programmers, who authorized or dispensed any "treatments"

8. Do you know of any involvement by the government at any level and/or through contracters or companies in this case or estate cases and if so, please give names of agencies, individuals, contractors and companies with their addresses, and state their involvement.

The above interrogatories are continuing and the party responding to them is under the duty to supplement his responses to include information thereafter required.

/s/
Louella F. Benson, pro se
6432 Montrose Street
Alexandria, Va. 22312
703 256 7595

I certify that the original and a copy of the foregoing are being mailed via first class mail postage pre-paid to Charles Brandt, Esq. at 300 B Stewart St., Lafayette, La. 70501, on this the 17th day of July 1986.

/s/
Louella F. Benson, pro se

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION

LOUELLA F. BENSON,
Plaintiff — Civil Action No. CV 86-0489

VS.

GLENN A. ALLY, Ph.D. et al — SECTION L
Defendants

SECOND SET OF
INTERROGATORIES TO DEFENDANT

To:

Izena Kidder
Through hes attorney of record:

Charles Brandt, Esq.
300 B Stewart Street
Lafayette, La. 70501

Interrogatories are being sent for Defendant Izena Kidder through her attorney of record, to be answered fully in writing by her under oath within (15) days in accordance with F.R.C.P.

1. Have you given approval to anyone to do *any* work or to use *any* chemicals on Tract 2 or in Coulee Croix, and if so please state to who you gave permission to do what, along with their mailing address, the date or dates of such permission and state what was done and/or what chemicals were used.

2. If you did give any such permission as above-mentioned, did you inform the people you spoke with that we are joint owners of Tract 2 and that my permission would be necessary.

The above interrogatories are continuing and the party responding to them is under the duty to supplement his responses to include information thereafter required.

/s/
Louella F. Benson, pro se
6432 Montrose Street
Alexandria, Va. 22312
703 256 7595

I certify that the original and a copy of the foregoing are being mailed via first class mail postage pre-paid to Charles Brandt, Esq. at 300 B Stewart St., Lafayette, La. 70501, who is counsel for defendants on this the 11th day of June 1986.

/s/
Louella F. Benson, pro se

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION

LOUELLA F. BENSON,
Plaintiff — Civil Action No. CV 86-0489

VS.

GLENN A. ALLY, Ph.D. et al — SECTION L
Defendants

THIRD SET OF INTERROGATORIES TO
DEFENDANT E.J. FAUL

To:

E.J. Faul
Through his attorney of record:

Charles Brandt, Esq.
300 B Stewart Street
Lafayette, La. 70501

Third set of Interrogatories are being sent for Defendant E.J. Faul through his attorney of record, to be answered fully in writing by him and under oath within (15) days in accordance with F.R.C.P.

1. Why and when was the Faul Energy Co. named Faul Energy Co., and state any and all positions you have held in such company and at what time, and state if and when you have divested of any economic interest or control in the Faul Energy Co?

2. Is or was, the Faul Energy Co. involved in underground storage, genetic research, new sources of energy or any form of research and development, including waste managements and/or oil field wastes and

state as to whether or not there have been any such involvement in the Faul estate, when and under what authority and by whom

3. Do you or anyone you know of, have any interest at all in the Faul estate now or for later, are you trying to obtain any part of the estate and/or sub-surface rights for any reason?

4. As a geologist do you do any work in the underground storage area, and has there been any drilling for pea gravel on the Faul estate or, are there any such plans for drilling for pea gravel and/or exploration and storage in the future on the Faul estate by the Faul Energy Co. or anyone else, and if you have given anyone permission to do anything on the Faul estate, state when and to whom and what for.

5. Is any sort of mental treatments being imposed upon this plaintiff, are her rights being violated in any way and if so under what authority, and state any sort of mental treatments imposed upon her previously' giving your involvment in same and under what authority?

The above interrogatories are continuing and the party responding to them is under the duty to supplement his responses to include information thereafter required.

/s/
Louella F. Benson, pro se
6432 Montrose Street
Alexandria, Va. 22312
703 256 7595

I certify that the original and a copy of the foregoing are being mailed via first class mail postage pre-paid to Charles Brandt, Esq. at 300 B Stewart St., Lafayette, La. 70501, on this the 8th day of October 1986.

/s/
Louella F. Benson, pro se

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

LOUELLA F. BENSON,
Plaintiff — Civil Action No. CV 86-0489

VS.

GLENN A. ALLY, Ph.D. et al — SECTION L
Defendants

MOTION TO EVALUATE E.J. FAUL

NOW COMES Louella F. Benson, Plaintiff pro se, and states the folling in support of this motion:

It would appear from E.J. Faul's motion to evaluate this pro se plaintiff that he is taking the responsibility for the frivilous motions filed by the defendants in the other related cases, in which he was not even a defendants but submitted an "affidavit" which was represented as sworn but was infact unsworn when Dr. Ally made his long-distance label, all of which were rejected by that Court including on appeal. The defendants were fined and warned about such motions and harrassment by embittered relatives. Lois F.Bearb testified *she* had not been fined. After E.J. Faul was named as a defendant in subject case in which this Plaintiff expressly stated she was not placing her health in controversy, but sought damages for their fraudulent scheme to take unfair advantageous of Plaintiff in a business deal, for conspiring and their efforts to defame and discredit this Plaintiff in their ongoing efforts to deny her due process, the defendants delayed for months in admitting or denying the pleadings. As soon as E.J. Faul received the interrogatories propounded to him by this Plaintiff on 4/19/86, instead of he, Ally, Lois F.

Bearb and Izena Kidder answering the interrogatories, ~~E.J. Faul filed for a mental evaluation of this Plaintiff and no interrogatories~~, E.J. Faul filed for a mental evaluation of this Plaintiff and no interrogatories have been answered. Plaintiff requested copies of any statements or affidavits filed in support of E.J. Faul's motion for mental evaluation from his counsel, the Judge and the Clerk and/or certification that there were not any as shown in her letters in the docket re this motion and other motions, and infact sent checks to the Clerk but got the run around. E.J. Faul's motion to evaluate Plaintiff was granted, the fraudulent scheme and conspiring was ignored (which Plaintiff can prove) as were E.J. Faul's untruths and distorted untruth which he did not see stated in his 1985 affidavit which had been rejected and was not even in the record in this case. (Why are they stonewalling on crucial questions, including Dr. Ally. He does not know what is related or unrelated in this case case and admits he does not know Plaintiff. Plaintiff has impressive evidence that her complaints are true which she has made available to this Court. "Affidavits" are repleat with lies, hearsay which can be proved.

For these and the reasons stated in Plaintiff's attached affidavit of this date, and her affidavit of 1985 and attachments, all attached, Plaintiff respectfully requests that E.J. Faul be ordered to submit to a mental evaluation under PRCP 35 or any applicable rule, and that such evaluation be done by a totally independent doctor outside the Western District who is not police affiliated and that

E.J. Faul be subjected to a complete battery of psychological tests to support the evaluation.

Respectfully submitted,

/s/
Louella F. Benson, pro se
6432 Montrose Street
Alexandria, Va. 22312
703 256 7595

I certify that a copy of the foregoing and affidavits and attachs are being forwarded via first class mail on this the 18th day of Oct. 1986, to Charles Brandt, Esq., at 300 B Stewart Street, Lafayette, La. 70501, and to Homer Ed Barousse, Esq., at Edwards Bldg., P.O. Drawer 730, Crowley, La. 70526

/s/
Louella F. Benson, pro se

AFFIDAVIT

I, Louella F. Benson, plaintiff pro se, and the sister of E.J. Faul, being duly sworn deposes and states:

I have represented to this Court that I have not seen E.J. Faul since 11975, at which time he informed me that what I said "did not matter anymore", that E.J. Faul told me over the phone in 1981 during the estate matters that if I came to Lafayette he knew a doctor who would help him place me in an institution, that during the same year-he submitted his plan to take complete control of the Faul estate of our deceased parents (witnessed by his first x-wife Nellie) and that he would not let back in anyone other than those he chose, that he Bearb and Leslie Faul, Izena Kidder, later sued me in efforts to stop me from bidding on the improvements of my deceased parents. I pointed out that he lied under oath and provided evidence to prove that as shown with my rebuttal and attachments of the 1985 "affidavit" attached.

Plaintiff represented to the Court in 1985 affidavit that E.J. Faul was treated at the Raleigh Hills addiction center in Lafayette and that she cannot be subjected to his mood swings each time he and his wife are estranged or when he is under stress. Since that time Plaintiff was informed that E.J. Faul and Nellie have divorced, that E.J. promptly married Ruth Hidalgo, and that shortly afterwards that E.J. Faul was jailed for making threats, that his daughter had testified against him, and that he is separated from this wife, all of which certainly generated a great deal of stress.

Dep. Bearb, defendant in CV84-2540, represented in 1985 that E.J. Faul was stating wild untruths re this plaintiff and wanted to have her committed to an institution

(After she purchased property.) (Dep. Bearb in 1984, trespassed on Plaintiff's property and falsely accused her of having committed forgery in Houston, that they were working on it and she would be nailed etc. and which had been kept secret from this Plaintiff for many, many years until she had money to bid on and buy the improvements of her deceased parents, which Bearb's wife, Lois F. Bearb et al, are trying to obtain in CV84-2541 along with the land where most of the improvements are, all of which they agreed to sell in 1983, and did not bid on the improvements later when they had an opportunity. This Plaintiff has informed th eCourt that not only she never committed forgery nor any crimes but she has been the victim of both fraud and forgery, represented herself pro se and won, including on appeal. (Although Lois F. Bearb said under oath on 2/5/86 that she is not trying to obtain plaintiff's property and Leslie Faul testified in 1985 that the properties are hers, statement of issues filed by their counsel on 2/21/86 shows that they are trying to obtain the properties, E.J. Faul has refused to answer any questions just as they have in this case. These defendants have worked together, see "plans" by E.J.; "No Bids", threats by Leslie Faul etc.)

As shown in 1985 affidavit, Plaintiff told her brother E.J. 1981 over the phone that she had volunteered for complete evaluation and psychological testings which revealed that she does not have the mental problems. On May 7, 1986, Plaintiff wrote the Court and copied the defendants' counsel and quoted from the results of the tests and evaluations which she volunteered for -to prove with objective scientific tests that she does not have the problems, and said that with permission of the Court, she would forward such results to the Court only, that her pleadings expressly stated that she was not placing her

health in controversy and that she does not want E.J. Faul in her medical life, and does not feel that he has a right to her medical life because Dr. Ally was paid to make a long-distance label of this plaintiff by defendants who are trying to obtain her property, that he does not know the Plaintiff and ignored all required clinical procedure before making such a label and on June 9, 1986, quoted from the Orders of the Magistrate and Judge in other cases who had turned them down three times, finally fined and warned them re the harrassment. Plaintiff did not hear from the Court on her offer other than to tell her not to communicate with the Court ~~on her offer other than to tell her not to communicate with the Court~~ after she rebutted a letter counsel for the opposition had sent the Court and returned her correspondence while counsel is still copying Judge. Thus, she did not send the information without the Court's permission. Plaintiff did submit and affidavit by her husband, Joseph L. Benson, who she has been married to for over ten years, and who verified her representations re her tests results and mental evaluations and that the doctors who completely evaluated her did not recomended any treatments and other matters stated in his affidavit attached.

Dep. Bearb said that this plaintiff had received some sort of "mental treatments". This would be a violation of civil and criminal codes without plaintiff's knowledge or consent-even if she had been a mental patient and it is all the more since she has objective scientific evidence that she does not have such problems — and which E.J. Faul and others knew of before they hired Ally. E.J. Faul also, has refused to answer the first, second or third set of interrogatories concerning he, the Faul Energy Co., his actions, the "mental treatments" his "plans" or his mental

state, they want summary judgment on the pleadings based on public policy considerations and/or summary judgment for default because Plaintiff did not go to the psychiatrist selected by E.J. Faul in Lafayette in view of his threats, her evidence as above-mentioned, that she had expressly stated in her pleadings that she was not placing her health in controversy, and the malicious bad faith untruths by the defendants under oath and their motives and fraudulent scheme to take over her property as she proved to the Court by the issues contested in CV84-2541 on 2/21/86 attached.??????????The Court has threatened that unless this Plaintiff obeys its order by Oct. 20, 1986 that the case would be dismissed with prejudice. Obeying would mean seeing E.J. Faul's choice of doctor Lafayette and stepping in the fire. Just as they paid a to ignore all required procedures and make a long-distance based on sworn statements which as explained in her pleading are not sworn other than Melody Faul's (E.J. Faul's daughter) malicious false affidavit with untruths which were rejected by the Court in 1985. (See Plaintiff's husband affidavit attached and Melody too, has refused to answer any interrogatories, and like the second and third set, and other interrogatories sent to E.J. Faul and other defendants, these did not fall within the motion to compel answers which the Court denied, and certified letters were sent to counsel and a call was made to his secretary to remind him to have the defendants answer interrogatories. E.J. Faul refuses to answer re past and/or on-going treatments and plans re this Plaintiff and under what authority, Nor did he answer re Faul Energy Co. nor his plans and state of mind nor re his 1975 statement re this plaintiff, nor re "book case". Dr. Jonas Robitscher stated in the Powers of Psychiatry that almost anything can be done to mental patients in the name of treatments. See the Plantiff's pleadings for statements by professional etc. (The defendants also

refuse to answer if the false forgery was placed on her name in efforts to have her "treated." Izena Kidder did not want this Plaintiff at the home of her parent years ago after she had a child out of wedlock, as did some of the others but that was not true of all of her family. While E.J. Faul refuses to answer interrogatories he sent interrogatories to Plaintiff wanting to know the names and addresses of her children and the names and addresses also of the fathers of her children when he knows quite well she has but one child who was born out of wedlock over twenty yrs. ago. Plaintiff has answered the relevant questions inspite of the fact she was denied discovery from the defendants. The evidence shows that when she talks to counsel over the phone she is exploited and misrepresentations are made to try to make her fit the label, all of which is in the record.)

Due to the above mentioned, Plaintiff states that to dismiss this case with prejudice without a trial would again subject her to inhuman and illegal abuses without recourse all of which are unwarranted. There is a record of secret abuses and denial of rights in the past with efforts to use those abuses after Plaintiff had money to buy property which defendants are trying to obtain. The defendants know that this Plaintiff has a heart condition which has nothing to do with the mind and she should not be subjected to such harrassment because she had money to buy property. They insisted that Plaintiff's husband, a Jew sign off his community rights; hired Ally for 1. distance label and ~~he~~ lied .

The Plaintiff respectfully objects to summary judgment with or without prejudice for anyone, she objects to the defendants not being compelled to answer interrogatories and she objects to the denial of her request for change of venue, she objects to their request that Plaintiff be made

to pay any costs, attorneys' fees or fines and takes her exception to all of these matters as well as having been denied discovery and other matters mentioned in support of motions. (Plaintiff refers to undue discrimination in the Western District as compared to the way Dep. Forest Bearb was protected from a mental evaluation in CV84-2540 although his pleadings on counter claim would certainly have warranted evaluations he told a witness he would "slap her", and her motion to evaluate him was pending for about six months as was her affidavit and never heard, and that her motion to evaluate Leslie Faul in CV-84-2541 was denied inspite of the fact that he threatened her with a posthole digger in front of witness, when Plaintiff was trying to do work on her property. There is evidence of on-going abuses.) Plaintiff has been sick since exposures of June 2 on her property. She was told that permission to use chemicals on her property was obtained from other heirs:

Plaintiff respectfully requests that E.J. Faul be made to undergo mental evaluations and testings for the above mentioned reasons and because he lied under oath coupled with his "plans" and malicious motives, his problems and threats re this Plaintiff. Plaintiff has shown that there is probable cause that if she was evaluated by the Lafayette Doctor that harm would probable come from it in view of the defendants having ignored the rules earlier by paying a doctor to have her labeled unseen with false statements, ignoring procedures required and now E.J. Faul wants to pay a doctor to confirm their long-distance label which he knew was false. This Plaintiff has not been around these people in years. Why the sudden "affidavits" only after she had money to buy property which they are still trying to obtain. In Plaintiff's opinion, E.J. Faul's own situation does not warrant any interventions in this Plaintiff's and her husband's life but that he should show evidence of his own state of mind.

SWORN AND SUBSCRIBED BEFORE ME, this ____ day of Oct. 1986, nor did the testing indicate any such thing. Izena and Melvin Kidder's untruths underoath are unconstitutional and were denied to Plaintiff years ago. M. Kidder could not have seen that and be and others swore to untruths they did not see. See rebuttals.

Louella F. Benson
6432 Montrose St.
Alexandria, Va. 22312
703 256-7595

COMMONWEALTH OF VIRGINIA,
COUNTY OF FAIRFAX, TO WIT:
Sworn and subscribed before me this 18th day of October, 1986.
My commission expires July 10, 1990.

This plaintiff is not a violent person

July 11, 1985

Mrs. Louella F. Benson
6432 Montrose Street
Alexandria, Virginia 22312

Re: Louella F. Benson vs.
Lois Bearb, et al

No.: CV84-2541

Dear Mrs. Benson:

Enclosed are your answers to the revised supplementary interrogatory. I believe this will respond to point 2 of your letter of July 7, 1985. As to point 1 of your letter, my clients have no obligation to sign any medical authorization forms and I will advise them not to do so. If you want to obtain the medical information that you need, you may come to Lafayette and take the deposition of Dr. Mnayer and the custodian of records of Lafayette General Hospital. Should you decide to do so, please give me adequate notice of your intent to take such depositions.

Sincerely,

CHARLES BRANDT

CB:mrm

Enclosures (2)
2 Answers

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION

LOUELLA F. BENSON
VERSUS CIVIL ACTION NO. 86-0489
GLENN A. ALLY, PH.D., Et AlSECTION "L"

INTERROGATORIES TO PLAINTIFF

NOW COMES E.J. Faul, and propounds to Louella F. Benson in proper person, the following interrogatories to be answered separately and full in writing and under oath and by plaintiff within fiften days in accordance with the Federal Rules of Civil Procedures.

What are the names and address of all physicians, psychiatriats and psycologist who have examined you, treated, tested or evaluated you within the last ten years regarding your mental health or whom have conducted any psychological testing or examination of any sort whatsoever upon you?

> I have not placed my health in controversy as I specifically and expressly stated in pleadings. The only "treatments" I have received are the treatments Deputy Bearb said I had received and which the defendants are stonewalling on. See my husband's affidavit. E.J. Faul and the heir defendants knew in 1981 that I had objective scientific evidence that I do not need treatments and do not have the mental problems after I volunteered for testings and evaluations. E.J. Faul, nor the defendants for whom he is requesting this, do not have any business in my medical life or my records. They are trying to try me in 1986 for abuses of many years ago

(because I had a child out of wedlock over 20 yrs ago) when I was denied affidavits as I have proven and that is unconstitutional. This is what E.J. Faul tried to do in 1985 in conspiring with the defendants in CV84-2541 because they were and still are trying to obtain my property. Why all this only after years and after I had money to buy the improvements and land which belonged to my parents (with their consent). Why do the defendants and E.J. Faul not supply me with statements and affidavits in support of their motions in this case? Where is the proof of their state of mind? Why don't they address the conspiring and fraudulent scheme in my pleadings in asking questions??

INTERROGATORY NO. 8

What is the name or names and address or addresses of the father or fathers of these children?

I had only one child so there is only one father which should answer this malicious unrelated question. See opposition attached. He would not welcome public embarrassment and I do not want him in my life. This is bad sense amongst other things. I did not ask for help from any one, not even the govt. and I do not owe anyone feedback.

INTERROGATORY NO. 9

Exactly which statements were made by defendants in the above captioned law suit which you consider and contend are untrue, which ones do you contend are considered to be defamatory and for each statement so listed, give the date it was published, to whom it was published and where it was published?

'See my amended pleadings.

INTERROGATORY NO. 5

Please describe your job duties for your employment by the United States Government while you were stationed in Viet Nam, the name of your immediate supervisor and the names of any co-employees that you worked with.

See page 9 attached for description of duties etc. I was sprayed with Agent Orange and became crippled for a while and I do not owe E.J. Faul nor anyone else any feedback since I served well and in good faith as did many who in my opinion were treated very very badly. I only asked for any received a part of my salary until I was able to walk again which I believe was a very few months. Did E.J. ever serve during a war. Many of my co-employees died and E.J. would be disappointed with my letters of commendation but that has nothing to do with my pleadings or his "plan" letter or their conspiring and fraudulent scheme. I have read where the government was in business of treating those who were in Viet Nam. I do not want treatments from the government or anyone else.) I want truth.

INTERROGATORY NO. 6

Please list the names and titles of all law suits you have been involved with or in in the past ten years, where they were filed and what the disposition was?

See page 11 attached. I never had law suits before I had an M.I., heart injury which was ignored. Your client Dep. Bearb knew of my heart problems because when he accused me falsely he said "you cannot take it with you" in referring to the property I brought upon which he was trespassing. The Chief of Detectives in Crowley (at the time) admitted that Dep. Bearb told him about me and the estate problems. Dep. Bearb was supposed to try to discover

information about me and which you were supposed to copy me with and did not. What about my rights. What if it is wrong or false like the false forgery. After the harm is done is it just offered up to "public policy" with "exaggerated" fraudulent matters. The heir defendants will not obtain my property even if they cause another heart attack. They required that my husband sign off his community rights which he did. What did E.J.'s first Xwife or Beārb sign of.

INTERROGATORY NO. 7

What are the names and addresses of any children that you have borne?

I have only one child who was born out of wedlock over 20 yrs. ago. See opposition. Have they not harrassed long enough. It is my responsibility to protect my daughter from E.J. Faul and other heir defendants after what they have done to me. This has nothing to do with my suit and their long distance label could hurt her. If they hurt her I will sue them again.

AFFIDAVIT OF JOSEPH L. BENSON

I, Joseph L. Benson, a legal resident of the State of Virginia, have been married to Louella F. Benson for more than 10 years and reside with her at 6432 Montrose Street, Alexandria, Va. 22312. Shortly after our marriage I learned that I had cancer of the bladder and since had a heart bypass. Louella has taken good care of me and has been both compassionate and sympathetic to my concerns. My wife is a gentle, loving person who is very open.

I am now and have been a public utility consultant for about thirty years in the national gas pipeline industry, following twenty-three years of government service, including service as a Naval officer during World War II. Prior thereto, I received three degrees from the University of Texas, including Master of Science in Civil Engineering and Master of Arts, majoring in Economics. Since February 1976, Louella has been in my employ as an Administrative Assistant, Secretary and Bookkeeper.

As a wife and as an employee, Louella has been loyal, trustworthy, competent and industrious. As to her difficulties with her relatives, I can only state that I visited with her twice at the home of Lois and Forrest Bearb. I found no fault with Louella's behavior in any of such visits, nor did Forrest Bearb show any hostility. I have also visited with Louella at the homes of other heirs and their children and there were no problems.

As to the allegations of forgery by Louella, it is my opinion that such allegations are without substance and are false. Louella, as pro se tried and won a case in which she was a victim of fraud and forgery.

In 1981, Mrs. Benson volunteered for psychological testing and evaluation. The psychiatrist who completely

evaluated her and had her tested told me that she has no psychosis. He stated that he noted a mild situational depression which was not psychotic, not even neurotic, and did not recommend any treatments, nor have I sought any. JLB.

It is untrue that my wife was angry when Melody Faul arrived to visit with us in February 1977. The only problem that came up was that Mrs. Benson asked Melody to turn off the TV and the lights late during the second night because we are light sleepers. At no time did I hear any of the discrediting remarks in Melody's affidavit. I was in both the office and at home with my wife when Melody was here. As to buying Melody a present, my wife is a kind and generous woman. She does her own housework and gives to charity the money she would otherwise pay to a maid.

/s/ Joseph L. Benson

State of Virginia
County of Fairfax

Sworn and subscribed before me, a
Notary Public in and for Fairfax
County, Virginia this 29th day of
Aug. 1986

/s/ Jamed M. Boyer, Now By marriage
My Commission Expires: Oct 8, 1989

Opelousas, La.
Oct. 18, 186

Case C.V. 86-0489
Section L

Affidavit above case number

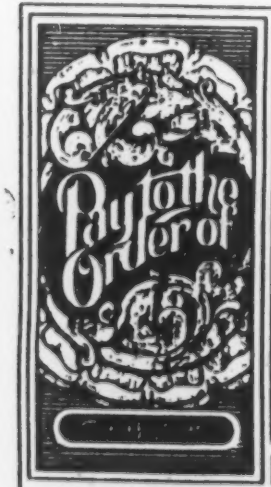
I Joanna B. Miller have known Louella F. Benson since 1949. We finished high school together. Later we shared an apartment. I have seen her several times since. My husband & I visited her in 1985 in Virginia. As long as I have known her she was always kind, honest, pleasant, hard working and of sound mind to the best of my knowlege.

/s/ Joanna B. Miller

Sworn and subscribed
before me this 18th
day of October 1986

Notary Public
R.G. Hargrove

Rosamond Maurel - Witness
Marie Lucito - Witness



CHARLES BRANDT
ATTORNEY AT LAW
GENERAL ACCOUNT
P O BOX JJ
LAFAYETTE, LA 70502

603

August 6, 1989 — 84-40/652

Mrs. Louella F. Benson | $ 150.00

--------ONE HUNDRED FIFTY & NO/100 Dollars

FIRST NATIONAL BANK
LAFAYETTE, LOUISIANA

For $50.00 per defendant (3)
Reimbursement for court costs

Signed

⑈000603⑈ ⑆065200405⑆ ⑈0086531⑈

To all members of the family:

I, Ewell J. Faul, plan to call for a public auction of the property that we jointly own in St. Landry Parish no later than November 15, 1981, if a unanimous decision cannot be reached by all parties as of that date.

I plan to be at that auction and to purchase this property in my name and I will allow no one to back in for their share unless I so desire.

I also plan for this sale to include all mineral rights attributable to the property and whoever is successful in purchasing the property will be in total control of its disposition.

October 23, 1981 /s/ Ewell J. Faul
Ewell J. Faul

Witnessed by: Nellie Champagne Faul

Dear Louella,

It seems that we have two choices now concerning the property. We proceed as agreed by 9 of us at the Oct 10 meeting or we have a public auction.

Your ideas were presented to the group. They were not accepted. The price for the house was thoroughly discussed before the divison. All were in agreement. I don't think it would have made any difference if you had been present. They still would have done the same thing.

It is too late to change the rules now. That would require another meeting and I don't intend to do that again. Also, if we change things to satisfy you, others would ask for changes. There would be no end to it.

If I don't hear from you on time to stop Ewell before Nov 15th, I will withdraw from any more discussions with anyone and let Ewell handle it. I can't take any more of this.

All the others have signed to let me have the old car. Do you want to bid on it too or how do you want to dispose of it.

/s/ Leslie

JOSEPH L. BENSON, LOUELLA 1981
6432 MONTROSE ST
ALEXANDRIA VA 33212

THIS MAILGRAM IS A CONFIRMATION COPY OF THE FOLLOWING MESSAGE:

7032567595 TDBN ALEXANDRIA VA 43 10-29 0753A EST
FON 3185282151
LESLIE FAUL COPY MESSAGE, RUSH PHONE IMMEDIATELY
528 PATTON ST
SULPHUR LA 70663

PLEASE FORWARD COPY OF LEASE. EURA AND I HAVE COME TO AN AGREEMENT. I HOPE YOU AND I CAN REACH AN UNDERSTANING ON THE HOUSE, THAT IS THE ONLY THING PREVENTING THE STRIPPING, IF NOT, AM SUBMITTING A FORMAL BID OF $17,000. LOVE
LOUELLA

0757 EST

MGMCOMP MGM

November 6, 1981

Mr. Norman P. Foret
Post Office Drawer 2700
Lafayette, La. 70502

Dear Mr. Foret:

Your client, Grace Kidder came to see me and there is no disagreement between her and I, about the action that I take. My response in this letter is therefore directed to your client Janell Lorrain.

1. I will, using the estate's funds in my custody, have a licensed surveyor divide the land in five equal parts as we had planned at the October 10th meeting, to determine the exact boundaries of each part of land.

2. If, as your client claims, the house is located on two parts, it will entitle the four owners of the two parts to have equal privileges for the house. Through mutual agreement, my sister Lois, who jointly owns the part with me, where the house is presumed to be located, agrees to let me have the house. The other part is owned by Louella and Eura. Eura has agreed to sell her share to Louella. Louella is very determined to get the house, so I offered to trade my part where the house is located for a part that she bought where there is no house. She refused. Any settlement with Louella will be very difficult as you can see. Until this has been resolved, we cannot proceed further, because she will not agree on the land partition.

Your client Janell has twice before requested that I divide the money I control. I have responded by sending each heir a check for $2,000.00. As executor of the estate, I am responsible for paying all expenses: taxes, insurance,

lawyer's fees, house repairs, etc. I have accounted to her and all the others for every penny that was received and spent. In response to your request that all funds in escrow be divided immediately, I will do so and dissolve the bank account, if she will send me a notarized statement saying that she will accept responsibilty for paying all the bills, and then collect from the ten heirs. Otherwise, she should not expect me to do what she does not want to do.

Is my intention to explore all possibilities for agreement and not to sell the property at public auction. If, however, there is clear indication that no settlement is possible, I will, as executor, petition the judge for a public auction, and hold the mineral rights if possible.

One of the heirs has declared that he will petition for public auction by November 15th, if no settlement has been reached. I am trying to stop him from doing this, but as a lawyer, you should know he has a right to do this. We will have to wait and see.

I feel that I have done my duty to the best of my ability as executor, and have been completely honest with everyone. I am surprised, and hurt that Janell and Grace have seen fit to employ a lawyer to write this letter.

Sincerely,

/s/

(OVER) Leslie Faul

If the surveyor's find that the house is all on my land, I will hold everyone to the agreement 9 of us made - NO BIDS I have already won it and will fight you in the courts or otherwise to keep you from getting it.

Nell

Hope you, Bud and the kids are well regret the unfortunate conversation we had. You are still one of my favorite people. The children or rather some of the grandchildren in the family cannot help but be influence by some of their elders. When it comes to my own house, however, I call the shots I work hard and must have a certain amount of rest to fill all my roles. I would take nothing away from Melody and wish her well always but in view of the fact that I went out of my way to be nice to her and she proved to be inconsiderate. I would have to do the same thing under similar circumstances. I do admire you taking up for her anyway – that's what families are suppose to be for

I am returning her graduation ring and earrings. Am enclosing $5.00 for little E.J. Had promised a birthday present and have not had a chance to buy anything. Also enclosing a ring Laurette might like Joe bought that for me on a trip at some airport in a hurry and it's too youthful for me.

Say "Hello" to your mother and family. It's nice of you and Bud to look after Pop. I understand he is doing better.

Take care.

signature

April 9, 1985

Mrs. Louella F. Benson
6432 Montrose Street
Alexandria, Virginia 22312

Dear Mrs. Benson:

Regarding your motion to compel release of sworn affidavit, please be advised that I chose not to use the affidavit of Leslie Faul in requesting a mental evaluation of you. The affidavit did not meet the standards which I have in mind and I discarded it.

As for your allegations that you could not obtain my affidavit on the original requested mental evaluation, this is false. I attached a copy of my affidavit to every copy of the original requested mental evaluation.

I am also in receipt of your motion to compel interrogatories to Lois Bearb. This motion is now moot since answers to these interrogatories have been submitted to you, although I have received a draft copy.

According to Magistrate Methvin's Minute Entry of March 29, 1985, you are to submit $50.00 each to Lois Bearb and Leslie Faul in connection with your motion for mental examination which was denied. Please forward this immediately.

Sincerely,

/s/
CHARLES BRANDT

CB:mrm
cc: Judge Shaw

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 86-4738

LOUELLA F. BENSON,

Plaintiff-Appellant,

versus

LOIS FAUL BEARB &
LESLIE FAUL,

Defendants-Appellees.

Appeal from the United States District Court for the
Western District of Louisiana

ORDER:

IT IS ORDERED that appellant's motion for leave to file motion to inform the Court is denied.

/s/
CHIEF JUDGE

Article 730 – doubt as to the existence, extent or manner of exercise of a predial servitude shall be resolved in favor of the servient estate.

Article 744 – the owner of the dominant estate has the right to make at his expense all the works that are necessary for the use and preservation of the servitude.

Article 750 – if the title does not specify the location of the servitude. The title further requires the owner of the dominant estate to make changes at his expense. Even with this not so, the Civil Code requires the owner of the dominant estate to maintain and preserve the servitude. In interpreting this servitude as to its existence, extent or manner of exercise, the Civil Code provides that any doubts ar to resolve in favor of the servient estate, e.g., in favor of the defendants.

CHARLES BRANDT
Attorney for Defendants
300 B Stewart Street
Lafayette, Louisiana 70501
(318) 237-7171

Prayer

Defendants pray that after review by the District Court, the Magistrate's Order of April 22, 1985, be reversed, that the Plaintiff be ordered to submit to a mental examination under Rule 35 (a) and, alternatively, in the event of a denial of this Motion, that the Magistrate's order compelling a sanction of FIFTY and NO/100 ($50.00) DOLLARS against each Defendant, and in favor of the Plaintiff, be over-turned.

CHARLES BRANDT
Attorney for Defendants
P.O. Box JJ
Lafayette, Louisiana 70501
(318) 237-7171

Should there be a trial on this matter, it will be shown that plaintiff herself has told several of her relatives that she committed forgery in Texas and, if defendant did in fact make a statement concerning forgery as asserted in the law suit, it was merely a parroting of plaintiff's own remarks.

CHARLES BRANDT
Attorney for Defendants
300 B Stewart Street
Lafayette, Louisiana 70501
(318) 237-7171

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the above and foregoing Pre-Trial Memorandum has this date been forwarded to Mrs. Louella F. Benson, 6432 Montrose Street, Alexandria, Virginia 22312 by depositing same in the United States Mail, postage prepaid and properly addressed.

Lafayette, Louisiana this _____ day of March, 1986.

CHARLES BRANDT

(envelope)
Charles Brandt, Ltd.
(A Professional Law Corp.)
300-B Stewart Street
Lafayette, Louisiana 70501

Mrs. Louella F. Benson
6432 Montrose Street
Alexandria, Va 22312

UNITED STATES DISTRICT COURT
OFFICE OF THE CLERK
WESTERN DISTRICT OF LOUISIANA

March 20, 1986

Charles Brandt
300 Stewart Street
Lafayette, La. 70501

RE: RETURN OF DOCUMENTS
Civil Action Number: 84-2540-0
Louella Bendon vs. Forest Bearb, et al
versus also in 84-2541

Dear Attorney:

Under the provisions of Local Rule 6(d), the attached documents are being returned to you for the reasons listed below:

(xxx) Failure to sign pleadings are required by FRCP 11.
( ) Failure to place a caption on pleadings as required by FRCP 10(a).
( ) Failure to tender filing fee as required by 20 USC 1914.
( ) Failure to meet "specifications" of Local Rule 6(a), i.e., failure to type or plainly write on letter size paper.
( ) Failure to with Local Rule 6(b), proposed order should be on separate page with a caption.
( ) Failure to comply with Local Rule 2(d), i.e., submission of pleading signed by an attorney not admitted to practice before this Court.
( ) Failure to accompany a motion with a brief as required by Local Rule 10(e)

( ) Failure to comply with Local Rule 10.1(a).
( ) Failure to comply with Local Rule 10.1(b).
( ) Discovery materials shall not be filed with the Clerk, Local Rule 10.1(c)
( ) _____

_____

Sincerely,
ROBERT H. SHEMWELL, CLERK

By: /s/ _____
Deputy Clerk

ATTACHMENTS: cd
Document Being Returned Findings of Fact and Law
Received by Court on 3-20-86
Filed on behalf of Benson (P)
Copies of Local Rules

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION

LOUELLA F. BENSON,
Plaintiff

Civil Action No. CV 86-0489

VS.

GLENN A. ALLY, Ph.D. et al
Defendants

SECTION L

INTERROGATORIES TO DEFENDANT

To:

Lois F. Bearb
Through her attorney of record:

Charles Brandt, Esq.
300 B Stewart Street
Lafayette, La. 70501

Interrogatories are being sent for Defendant Lois F. Bearb through her attorney of record, to be answered fully in writing by her and under oath within (15) days in accordance with F.R.C.P.

1. State your name, address, occupation, level of education and the last time you saw me other than for estate matters?

2. Have you ever arranged for or requested any sort of mental treatments for me, and if so when, and from whom and give the names and addresses of the doctors, programmers, agencies who authorized and/or dispensed any such treatments as a result of your intervention and state for what condition, and list treatments administered.

3. In view of some of the untruths, misrepresentations and hearsay which you wrote in your "affidavit" in 1985, in support of a "mental evaluation" of me, weren't you seen by a mental health professional in a family session when your son got in trouble, and were you under the care of any mental health professional when I took your deposition on Feb. 5, 1986?

3. List the names of the people to whom you made the representations that the problems in the estate suits were all in my mind and/or that you mentioned the mental label to?

4. List the names and addresses of the people who told you that I had ever committed forgery or who said that I said I had committed forgery, and the dates that you were informed of such things, and state whether or not you have ever tried to use this for any inteventions in my life, and if so what and when?

5. In view of the very nice letter you wrote me in November of 1979, the fact that you sued me in 1983 when I insisted on bidding on the improvements of our deceased parents, your subsequent actions, was not your "affidavit" with untruths and hearsay, and those you were able to solicit, efforts to deny me due proces and carry out the plans for you to try to acquire my property since you are asking the Court to rule on whether or not the deeds are valid; if there was a meeting of minds; if I bought movable or immovable property (after I purchased with your agreements, not only the improvements but the land where the improvements are over two years ago).

The above interrogatories are continuing and the party responding to them is under the duty to supplement his responses to include information thereafter required.

/s/
Louella F. Benson, pro se
6432 Montrose Street
Alexandria, Va. 22312
703 256 7595

I certify that the original and a copy of the foregoing are being mailed via first class mail postage pre-paid to Charles Brandt, Esq. at 300 B Stewart Street, Lafayette, La. 70501, who is counsel for defendants on this the 19th day of April, 1986.

/s/
Louella F. Benson, pro se

March 6, 1985

The Honrable John M. Shaw
District Judge
P.O. Drawer J.
Lafayette, Louisiana 70570

Re: Louella F. Benson vs. Forest Bearb
No. CV 84-2540

Louella F. Benson vs. Lois Bearb,
et al No. CV 84-2541

Dear Judge Shaw:

In response to your Minute Entry Order of February 20, 1985, I engaged in a telephone communication with the plaintiff, Louella F. Benson, on March 5, 1985 at approximately 6:55 P.M., said conversation lasting until 7:12 P.M. the same date.

My interpretation of what Mrs. Benson stated was that she was not willing to engage in a settlement conference at this time because the interrogatories propounded by her to the defendants had been answered. When I stated to her that I would inform the Court of this, she stated that this was not her response and that I should inform you as follows:

> In the interrogatories to Leslie and Lois, the very last question is "what corrections are you willing to make?" In view of the agreement of October 30, 1983, and because of the defendants giving her problems and not being sincere, she would ask for answers to her interrogatories or a meeting with Lois, or Leslie. As to Forest Bearb, no answers to interrogatories have been filed. The things he said to her have hurt her very much. She would like for us to answer her interrogatories and then talk about the prospects of settlement.

She additionally questioned whether the Minute Entry Order pertained to both cases since it was contained on a minute sheet for Case 84-2540 only. I informed her that I felt that it was your intent that we discuss settlement of the entire case. I further informed her that I would make interrogatories which she posed and to have them mailed by the end of the week.

With best wishes, I am,

Very truly your,

/s/
CHARLES BRANDT

CB:mrm

cc: Louella F. Benson
Forest Bearb
Lois Bearb
Leslie Faul

6432 Montrose St.
Alexandria, Va. 22312

March 9, 1985

Charles Brandt, Esq.
P.O. Box JJ
Lafayette, La. 70502

Dear Mr. Brandt: Re: Louella F. Benson v.
Forest Bearb, C.V. 84-2540
Lois Bearb, et al 84-2541

A copy of your letter to Judge Shaw and enclosing original only of Defendant's Interrogatories to Plaintiff in C.V. 84-2540 (which for the most part have already been answered under oath and mailed to you on Jan. 14, 1985) dated March 6, 1985 arrived on this date. This letter is to correct certain misrepresentations which you made to the Court and to the defendants. By copy of this letter I seek permission from the Court to have future communications between you and this writer in writing.

In response to your letter of last week and your call, I informed you that in view of the seriousness of the remarks and actions of the defendant in C.V. 84-2540, I would have to have answers to my interrogatories mailed to you on Jan. 29, 1985, in efforts to find out the origin of all this which has indeed been damaging. I suggested the possibility of another settlement talk after I receive those answers. If the answers to those pertinent questions had been timely provided, the delay would not have been necessary.

Mr. Brandt the first sentence in your paragraph number two is untrue because *you have yet to answer one inter-*

rogatory as to all three defendants, and all were either past due or due as of 3/5/85. I am certain I did not state as you write "because the interrogatories propounded by her to the defendants had been answered" and this is supported by my evidence. I was well aware that you were to report back to the Court and I infact asked that you correctly represent what I had said.

As to C.V. 84-2541, I pointed out that if you will review my interrogatories to the defendants in this case (which were mailed to you on Jan. 31, 1985 in the case of Leslie Faul, and on Feb. 14, 1985 as to Lois F. Bearb) you will find that one of the quetions I posed to both my brother and sister was what corrections would they be willing to make. I told you that since the defendants were trying not to honor their letter agreements of Oct. 1983 and supplement dated Nov. 21, 1983 which they assured me of if I executed the partition (copies of which have been made available to you), I would have to have their answers under oath to learn just what they are sincere about, and I suggested perhaps another settlement conference with my brother and sister, hopefully in person, after I receive their answers. Unlike what you represented to the Court, I asked for their answers first not ". . she would ask for answers to her interrogatories or a meeting with Lois or Leslie Faul." Unlike what you told the Court, I said no answers had been provided by any of the defendants, not "as to Forest Bearb, no answers to interrogatories have been file

* * *

Mr. Brandt, you asked me if I had a copy of the Judge's Minute Order to which I responded I had the notation the Judge had ordered on the form resulting from my Motion to Dismiss in 2540 directing you to initiate a settlement conference via phone with me by March 4, 1985 and to

report back to the Court. Your letter received last week mentioned a settlement conference for both cases and you did inform me that you felt that it was the Judge's intent that we discuss settlement of the entire case. What you failed to tell the Court is that my response was that I thought that the Court's approach was an honorable one.

You responded that you would furnish the answers to the interrogatories this week and you added that you wanted the answers to your interrogatories to me which have not yet been furnished. I pointed out that most of my answers to their interrogatories had been answered in both cases by me under oath weeks ago, and that I was in the process of retyping the answers to 84-2541 on the originals which you had only recently made available and would do likewise as to C.V. 84-2540 once you provide the original. As to the few questions not yet answered I responded that I would provide the answers as soon as possible. For the most part the very very few answers I have had to delay are subject matters for trial purposes and will require another trip re certain matters.

You became very curt when I asked if you worked in the same building as one of my brothers (Faul Energy Co.) for which you later apologized for your over-reaction. I simply mentioned that you are not in a position to be curt with me.

You will recall my letter to you dated March 1, 1985, informed that I was available for the telephone conference between 9:00 a.m. and 5:00 p.m. eastern standard time. I believe your call was between 7:00 and 8:00 p.m. on March 5. On the night of March 4, there were two calls around 11:00 p.m. or later with no messages left (which is rather unusual). My husband suffers from serious heart problems and cancer. We retire very early. Should it be necessary to call regarding legal matters in either case I

would greatly appreciate your cooperation. (Also, my letter of 3/1/85 requested answers to interrogatories.)

Mr. Brandt, your attitude and remarks to my former counsel etc. have to be based on what has been represented to you by certain member of my family, whose motives, at best must be questioned under the circumstances, not to mention their own involvements and attitudes in estate matters, ther circumstances and the fact that I have been obligated to pursue my rights. Please keep in mind that you have never met me and that I have not seen or been around certain members of my family for years and their efforts to invade my life are totally unwarranted and unjustified. (This is not so with my brothers and sisters whom I have been around.)

Very candidately, I fail to see how anyone is well served by your misrepresenting what I said to you to the Court. If there is a meeting between my brother and sister and myself, a priest might be present as opposed to you. I am copying my brother with this letter. In view of the misrepresentations in counterclaim etc. I will let you communicate with the Bearbs. In view of what has transpired. I feel totally justified in asking for some answers under oath.

Very truly yours,
Louella F. Benson

cc: Hon. John M. Shaw

6432 Montrose St.
Alexandria, Va. 22312

Sept. 1, 1986

Hon. Robert H. Schemwell,
Clerk, U.S. Western District
106 Joe D. Waggoner Bldg.
500 Fannin St.
Shreveport, La. 71101

Dear Sir:

Louella F. Benson vs.
Glenn A. Ally, et al
CV 86-0489 Section L

Enclosd for filing is the original and opposition to motion for summary judgment filed by the defendants in the above case, with attachments, including Exh. 1, my husband's JLB's original affidavit.

Also enclosed is an extra copy to be marked filed and returned for my files. Enclosed with this mailing is a self-addressed stamped envelope.

Sincerely yours,

/s/
Louella F. Benson, pro se
703 256 7595

cc: Charles Brandt, Esq.
300 B Stewart St.
Lafayette, La. 70501

Homer Ed Barousse, Esq.
Edwards Building
P.O. Box 730
Crowley, La. 70526

PS -Since Brandt mentions affidavits, documents enclosed and refers to a memorandum, and I only received Ally's affidavit and Brandt's Brief with the 9 un-numbered pages, I am enclosing a check for $25.00 for copies of anything which I have not been copied with in this case in efforts for an attempt at due process. The record shows that in May 1985, I was only copied with their "appeal" in other cases after I walked in the Clerk's office and read the file. I would also appreciate receiving a certified listing of documents, attachments, etc. filed with motions for summary judgment counsels filed in March 1986 and April 1986 in CV84-2540 as well as a certified list of anything furnished the Court in this case. Please copy me with the letter filed by counsel Barousse in CV84-2540 on 3/25/86. ~~Thank~~ you.

DOCKET CONTINUATION SHEET

Plaintiff, LOUELLA F. BENSON

Defendant, ESTATE OF FOREST BEARB, ET AL

Docket No. 84-2540 L-0/0

DATE	NR	PROCEEDINGS
2-11-86	129	RULING: Plaintiff's motion for sanctions for failure to comply w/motion to compel discovery is DENIED (JMS/all)NOE/rvw
	130	RULING: Defendant's motion to dismiss filed on behalf of Forest Bearb is DENIED, due to the substitution of parties (JMS/all) NOE/rvw
2-12-86	131-132	MOTION (P) For Late Filing Of Supplemental Amended Complaint, ref. to JMS (all)
	133-134	MOTION (P) For Supplemental/Amended Complaint, ref. to JMS (all)
	135-137	RESPONSE (P) To Motion For Protective Order and MOTION To Compel Sheriffs To Appear, For Sanctions And For A Continuance in 84-2540, ref. to JMS (all)
2-13-86	138	OPPOSITION (P) To Inspection Of Real Property (all)
	139	MEMORANDUM (P) In Opposition To Motion
	140-141	MOTION (P) For Leave To File Late Motion; To Compel Lois F. Bearb To produce Documents As Per Subpoena Duces Tecum, For Sanctions And To Compel Their Counsel To State Who He Contacted In Houston Re "Forgery", ref. to MEM (all)
2-14-86	--	#135-137 ref. to MEM this date (rvw/all)
	132*	ORDER that #131-132 is GRANTED (JMS/all) NOE/rvw
	134*	ORDER that #133-134 is GRANTED (JMS/all) NOE/rvw

2-19-86	142	SUMMONS issued to Southern American Insurance Co. and fwd to Sec. of State for service per instr. of pltf. (all)
2-18-86	---	RECEIVED Letter (Atty, Barousse) to Clerk enclosing copy of a letter dated 2-13-86 to pltf. re depositions, etc. (all)
2-19-86	141*	ORDER that #140-141 is DENIED (MEM/all) NOE/rvw
2-21-86	142	PRETRIAL Stipulations (Joint) (all)
2-25-86	137*	ORDER returned from MEM's office unsigned (rvw/all) NOE/rvw
	143	ORDER re #122-123: the motion is GRANTED (MEM/all)NOE/rvw
3-7-86	144	MEMORANDUM OF PTC: #142 accepted as filed; D agreed to dismiss its CC agn. P, therefore, P's motion to dismiss D's CC is moot (JMS/all) NOE/rvw
3-12-86	145	WITNESS List (Elton A. Arceneaux) (all)
3-14-86	146	proposed Conclusion Of Law & Conclusions of Fact (Elton Arceneaux) (all)
	147	WILL CALL Witness List (P) (all)
3-17-86	148	PRE-TRIAL MEMORANDUM(Ds) (dw)
	149	WILL CALL WITNESS LIST(Ds) (dw)
3-20-86	150	REFUSAL Letter to Atty. Brandt re Findings of Fact & Conclusions of Law – pleading unsigned (all)
3-24-86	151	SUGGESTED Findings Of Fact & Law (D) (all)
	152	ME: T RESET for 8/25/86; all deadlines reset in accordance w/attached standing order (JMS/all) NOE/rvw
3-25-86	----	RECEIVED Letter to Clerk fm Atty. Barousse requesting that the motion for SJ which he filed on 3/24/86 be set on next motion calendar (all)
3-21-86	153	FACTS (P) Intends to Prove at Trial-Conclusions of Law (all)
	154	LEGAL Authorities For Trial Memorandum (P) (all)
3-25-86	155	LETTER (P) To Atty. Barousse (all)
3-24-86	156-157	MOTION (Elton A. Arceneaux, Sr. & Southern American Ins. Co.) For Summary Judgment - X Folder (all)
3-31-86	158	ANSWER (P) To Defendants' Motion for SJ & Opposition to Defendants' Motion for SJ
4-1-86	159	NOTICE (Clerk) setting #156-157 for hearing before JMS on 4-22-86 (all)

4-3-86	160	AMENDED MOTION (Arceneaux, Goss & Southern American Ins. Co.) For SJ - X Fldr. (all)
	---	RECEIVED Letter from pltf. enclosing Page 5A for attachment to #158 and also Exhibit #5 to #158 (all)

(OVER)

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION

LOUELLA F. BENSON,
Plaintiff — Civil Action No. CV 86-0489

VS.

GLENN A. ALLY, Ph.D. et al — SECTION L
Defendants

INTERROGATORIES TO DEFENDANT

To:

Glenn A. Ally, Ph.D
Through his attorney of record:

Charles Brandt, Esq.
300 B Stewart Street
Lafayette, La. 70501

Interrogatories are being sent for Defendant Glenn A. Ally, Ph.D. through his attorney of record, to be answered fully in writing by him and under oath within (15) days in accordance with F.R.C.P.

1. State your name, address, occupation, and specify if you do work for the police, or if you have been employed by them in the past?

2. Have you ever seen or talked with Louella F. Benson and have you ever dispensed any sort of treatment plan for her?

3. Did you in any way use a computer in arriving at your long-distance diagnosis of Louella F. Benson, and if so explain fully?

4. Were you given copies of the pleadings which Louella F. Benson had filed in the two law suits of Sept. 1984, the pleadings of 1983 when E.J. Faul et al, previously sued her, and of her affidavits prior to 3/6/85, before placing a label on her without knowing her?

5. Are any of the defendants from the Faul family your patients now; were they in the past or did you know any of them prior to 1985?

6. Was the settlement conference between Charles Brandt, Esq., and Louella F. Benson of the evening of March 5, 1985, made known to you, prior to your diagnosis of March 6, 1985

7. Are you government affiliated in any way; do you have any government grants or contracts from any government agencies now or in the past, and if so please list them and state if you do research of any kind in the field of mental health

8. Are you in the habit of making the diagnosis of schizophrenia, paranoid type without knowing or having evaluated the person, and if not then why did you do so in this case

9. Did you make any efforts to learn the motives and/or the problems of some of the other defendants who gave you this information prior to arriving at your diagnosis?

10. How long have you been practicing in the field of psychology; have you been sued or has your licensed ever been revoked, and if so please explain.

11. Are you certified by AMA and/or a member of APA, and do you follow the "accepted clinical procedures" prior to arriving at such a diagnosis of your patients, and state if you are a forensic psychologist?

The above interrogatories are continuing and the party responding to them is under the duty to supplement his responses to include information thereafter required.

/s/
Louella F. Benson, pro se
6432 Montrose Street
Alexandria, Va. 22312
703 256 7595

I certify that the original and a copy of the foregoing are being mailed via first class mail postage pre-paid to Charles Brandt, Esq. at 300 B Stewart Street, Lafayette, La. 70501, who is counsel for defendants on this the 19th day of April, 1986.

/s/
Louella F. Benson, pro se

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION

LOUELLA F. BENSON,
Plaintiff — Civil Action No. CV 86-0489

VS.

GLENN A. ALLY, Ph.D. et al — SECTION L
Defendants

INTERROGATORIES TO DEFENDANT

To:

E.J. Faul
Through his attorney of record:

Charles Brandt, Esq.
300 B Stewart Street
Lafayette, La. 70501

Interrogatories are being sent for Defendant E.J. Faul through his attorney of record, to be answered fully in writing by him and under oath within (15) days in accordance with F.R.C.P.

1. State your name, address and occupation and the number of years since you have seen me

2. Have you ever arranged for or requested any sort of mental treatments for me, and if so when, and from whom and give the names and addresses of the doctors, programmers, agencies who authorized and/or dispensed any such treatments as a result of your intervention and state for what condition, and list treatments administered.

2. In view of your affidavit of 1985 in estate matters in support of a mental evaluation of me and some of the untrue and unkind things which you have said, have you ever

been evaluated and are you, or have you been under the care of anyone affiliated with the mental health profession.

3. How many times and when were you treated for alcohol addiction, and were you confined in 1985 for some time for having made serious threats in the presence of your new wife and daughter. and did not your daughter testify against you?

4. In 1975, while I was caring for Pop, you informed me that what I said did not matter any more. What did you mean by that statement?

5. What does the Faul Energy Co. consist of; does it now or has it ever had any government contracts or grants for research and development of any kind, and if so explain fully as to what and where. and list any names and agencies involved, including companies or individual

6. Do you or the Faul Energy Co., now or in the past have any economic interest with Charles Brandt, Esq., Glenn A. Ally, Ph.D., or Edwin Cox et al, and is so please explain fully.

7. Do you know of or have you taken part in any type of constructions or research on the Faul estate and if so explain and give the names of the companies, individuals or agencies involved.

8. Have you ever been under the care of Glenn A. Ally, Ph.D. and if so when, and state the name of the doctor who you said you knew in 1981 over the phone, who you threathened would help you in putting me in an institution if I returned to Lafayette?

The above interrogatories are continuing and the party responding to them is under the duty to supplement his responses to include information thereafter required.

/s/
Louella F. Benson, pro se
6432 Montrose Street
Alexandria, Va. 22312
703 256 7595

I certify that the original and a copy of the foregoing are being mailed via first class mail postage pre-paid to Charles Brandt, Esq. at 300 B Stewart Street, Lafayette, La. 70501, who is counsel for defendants on this the 19th day of April, 1986.

/s/
Louella F. Benson, pro se

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION

LOUELLA F. BENSON,
Plaintiff — Civil Action No. CV 86-0489

VS.

GLENN A. ALLY, Ph.D. et al — SECTION L
Defendants

INTERROGATORIES TO DEFENDANT

To:

Izena Kidder
Through his attorney of record:

Charles Brandt, Esq.
300 B Stewart Street
Lafayette, La. 70501

Interrogatories are being sent for Defendant Izena Kidder through her attorney of record, to be answered fully in writing by her and under oath within (15) days in accordance with F.R.C.P.

1. State you name, address, occupation, level of education, and the number of years it has been since I have been to visit you

2. Have you ever arranged for or requested any sort of mental treatments for me, and if so when, and from whom and give the names and addresses of the doctors, programmers, agencies who authorized and/or dispensed any such treatments as a result of your intervention and state for what condition, and list treatments administered.

3. In view of your affidavit of 1985 in estate matters in support of a mental evaluation of me, and some of the untruths and misrepresentations which you made, have you ever been evaluated and are you, or have you been under the care of anyone affiliated with the mental health profession for such a thing as prescription drug addiction or mental treatment?

4. List the names of the people you informed that I had committted forgery, or who you informed that I had ever said any such thing, and state when you so informed them.

5. The Washington Post printed an article where false charges are placed on people in efforts to justify interventions or "mental treatments", were your false statements about me efforts to justify such unwarranted, unconscionable actions or "treatments"?

The above interrogatories are continuing and the party responding to them is under the duty to supplement his responses to include information thereafter required.

/s/
Louella F. Benson, pro se
6432 Montrose Street
Alexandria, Va. 22312
703 256 7595

I certify that the original and a copy of the foregoing are being mailed via first class mail postage pre-paid to Charles Brandt, Esq. at 300 B Stewart Street, Lafayette, La. 70501, Who is counsel for defendants on this the 19th day of April, 1986.

/s/
Louella F. Benson, pro se

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA LAFAYETTE-OPELOUSAS DIVISION

U.S. DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
FILED
MAY 27, 1985
ROBERT H. SHEMWELL, CLERK

BY _____
DEPUTY

LOUELLA F. BENSON,
Plaintiff

vs.

GLENN A. ALLY, Ph.D., et al
Defendants

CIVIL ACTION NO. CV 86-0489

SECTION L

AMENDMENT TO ORIGINAL COMPLAINT

1. Amending the original complaint by adding thereto the following allegations and the following defendants:

2. Defendants Lois F. Bearb, and Lois F. Bearb, executrix of estate of Forest Bearb, Acadia Parish, La., and Leslie Faul of Calcasieu Parish, La., were at all times relevant to this complaint residing in the said parishes in the State of louisiana.

3. On March 20, 1985, Lois F. Bearb published, signed and circulated an affidavit in La., with false and hearsay statements re many years earlier to falsely portray plainiff in efforts to place plaintiff in the "psychiatric net" to deny her due process and to justify their actions in trying to acquire plaintiff's property which they agreed to sell. Since 1979, Plaintiff visited with the Bearbs once briefly in Nov. 1983 (re estate matters). No problems before plaintiff bid higher on improvements.

4. After having made false statements about this plaintiff on her farm in St. Landry Parish, La., on March 23, 1984, (that plaintiff had committed forgery in Houston and that they were working on it and would nail her, and other false statements, in the presence of plaintiff's employees at her farm), Forest Bearb, Acadia Parish Deputy (Lois F. Bearb, executrix of estate of Forest Bearb), later in March 1984

misrepresented to the person investigating this matter that this plaintiff was crazy during a telephone conversation from St. Landry to Acadia Parish, and subsequently in 1985, defendant made false statements under oath (some of which can be proved untrue) which are damaging to this plaintiff. Statements were made in La. Other than above incident last saw him in 1979, and only once briefly in 1983 (Nov.). No problems before higher bid by plaintiff.

5. On April 30, 1985, Leslie Faul did publish, sign and circulate unsworn statement in La., with untruths concerning this plaintiff and forwarded to the Judge in Opelousas who is ruling on the suits in estate matters for breach of contracts, obstructions and changing of drainages, etc., and a civil rights case. The false statement by Leslie Faul was furnished to help support Lois F. Bearb's false affidavit, to protect himself and for his and Bearb's benefit. Plaintiff saw this defendant briefly in Nov. 1983 (re estate matters) and has lived away from him for years-no problems before plaintiff bid higher on improvements.

6. The above-named defendants knew that the information which they furnished and solicited was false and misleading and it was done by the defendants in bad faith and for self-serving reasons to accomplish their scheme.

7. After plaintiff filed suits for breach of contracts, obstructions and changing of public and private drainages, etc. about Sept., 1985, Charles Brandt, (counsel for defendants Lois F. Bearb, et al., Forest Bearb or Lois F. Berb, executrix of estate of Forest Bearb), although he had never seen nor spoken with plaintiff, at some time approximately in November-December of 1984, represented untrue information about plaintiff to her former counsel in Lafayette, that plaintiff was a mad woman etc., which the defendants knew was most untrue and discrediting.

8. Instead of answering the above-mentioned complaint, the above-named defendants, on Jan. 10, 1985, and their counsel

Charles Brandt, represented falsely to the Court and circulated that plaintiff's psycological condition was in controversy, and which they again knew was false but which was a part of their plan to take unfair advantage of this plaintiff in business dealings concerning estate property.

9. After the Court denied, the above named defendants' first motion for mental evaluation (Lois F. Bearb, Leslie Faul, and Forest Bearb or Lois F. Bearb, executrix of estate of Forest Bearb), these defendants again maliciously and in bad faith solicited affidavits from and conspired with E.J. Faul and Grace Izena Kidder (two of the other heirs who they knew had to obtain treatments for addictions and who had joined them in suing this plaintiff in estate matters, (E.J. Faul et al vs. Louella F. Benson et al, 1983 CV 89, 191-B-Opelousas, La.) and from Malcolm Bearb, the son of the defendants Bearb, Melody Faul, the daughter of E.J. Faul, Nellie C. Faul, one of E.J.'s former wives, from Melvin Kidder, the husband of Grace Izena Kidder, and from former police deputy, William C. Gibson, to whom plaintiff had made a verbal telephone compliant re Forest Bearb in 1984, who was also a deputy in Acadia Parish, and on March 25, 1985, Lois F. Bearb et al as above named, circulated all of the above to the Court along with Lois F. Bearb's affidavit and Glenn A. Ally, Ph.D.'s *March 6, 1985" "report"* (see Nos. 7, 13 of complaint) (whom they employed) and represented to the Court who is presiding in above mentioned suits tht "plaintiff doesnot have mental capacity to represent self", and that [1] "plaintiff is suffering from schizophrenia paranoid type", "contention of defendants that the allegations which have been made by plaintiff are a direct and a consequential result of the mental condition of the plaintiff and not the result of any activities by defendants". See No. 6 (Plaintiff has evidence that allegations in her complaints are true.)

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[1] Plaintiff has represented herself successfully in a case where she was a *victim* of forgery and fraud.

10. On May 2, 3, 1985, Lois F. Bearb, et al and Forest Bearb or Lois F. Bearb, executrix of estate of Forest Bearb, in their past and on-going abuse of process, again presented the above-mentioned false and misleading information aforementioned to the Judge in Opelousas who is ruling on the above-described cases, as well as to the Clerk in Shreveport and to the Magistrate in Lafayette, La. The defendants again circulated this false and misleading information after they had been told in writing this time, by plaintiff's affidavit of April 12, 1985, that she does not have the mental problems as had been verified by full evaluations and scientific objective psychological tests which she had volunteered for, after she was confronted with government and police affiliated doctors in Cardiac Care after a prob. I.M.I. had been diagnosed. Clearly, the actions of the above named defendants were again done in bad faith as is evident by the stipulation letter in CV 84-2541 signed by their counsel and filed on Feb. 21, 1986, in which Lois F. Bearb and Leslie Faul are asking the Court to rule as to "Whether there was a meeting of minds regarding the subject of the contracts to sell", whether there was a concurrence to sell", whether the improvements are movable or immovable", after their 1983 agreements which were apparently to trick plaintiff into signing the partition (when they sued plaintiff) in view of their past and present actions, their having asked for and received almost $40,000 from plaintiff in Nov. and Dec. of 1983, the fact that they, like all the other heirs, had an opportunity to bid on the improvements after the partition was signed and they did not, and that plaintiff with their agreements not only purchased the improvements but the land where the improvements are, and that Lois F. Bearb et al are still trying to breach their agreements, including "movable' improvements.

11. As the affifdavits were solicited in bad faith, they were given in bad faith which amounts to "harassment by embit-

tered relatives" to help the defendants in estate matters, and as further described below:

12. Grace Izena Kidder and Melvin Kidder, of St. Landry Parish, La. were at all times relevant to this compliant residing in St. Landry Parish, La.

13. On March 20, 1985, Grace Izena Kidder, did publish, sign and circulate an affidavit with untrue statements, and years earlier — 60's on, made false, secret representations re plaintiff, including false secret statements concerning this plaintiff having committed forgery and repeated and circulated this and other false information to other family members in La. and in fact, plaintiff was denied a sworn affidavit years earlier when she tried to pursue her rights. March 20, 1985 affidavit only shows that it was sworn to in La.

14. On March 20, 1985, Melvin Kidder, did publish, sign and circulate an affidavit in Louisiana with untrue and hearsay statements re many years earlier and as in the case of his wife Izena, plaintiff had been denied this sworn affidavit years earlier when she tried to pursue her rights. The March 20, 1985, only shows that it was published in La. This plaintiff has not visited the Kidders in over 20 years, afer her daughter was born and last saw them over 15 years ago when they came at her parents' estate.

15. Defendant Malcolm Bearb, son of the Bearb defendants, resides in St. Landry Parish, and was at all times relevant to this complaint residing in St. Landry Parish, La.

16. On March 20, 1985, Malcolm Bearb, at Lafayette, La., did sign and publish an affidavit with untrue statements regarding this plaintiff re ten years earlier in 1975 to help his parents falsely portray this plaintiff as being insane. There had never been any problems between this defendant and plaintiff prior to the estate problems with his parents and

plaintiff (and her husband) were again invited to have dinner with Malcolm and his family about five years ago which was the last time he had seen plaintiff.

17. Defendants Ewell J. Faul (E.J.) and Faul Energy Company, Nellis C. Faul, Aimee Melody Faul, Lafayette Parish, La., were at all times relevant to this complaint residing and/or operating in Lafayette Parish, La.

18. On March 21, 1985, E.J. Faul (Faul Energy Company) did publish, sign and circulate an affidavit at Lafayette, La., with untrue and hearsay statements concerning this plaintiff re years earlier to help defendants Lois F. Bearb, et al, Forest Bearb or Lois F. Bearb, executrix of estate of Forest Bearb. On June 20, 1981, Ewell J. Faul did state that "he knew a doctor who would help him put plaintiff in an institution if she came to Lafayette", and that his estranged wife was working on making this plaintiff a "book case", all during a long-distance conversation between plaintiff and E.J. Faul. During the last quarter of 1975, the last time plaintiff saw E.J. Faul, which was in St. Landry Parish at the Faul estate, he stated that "what plaintiff said did not matter any more." During the estate matters since 1981, Ewell J. Faul has again made misrepresentations re this plaintiff in La. with threats and plans to the detriment of plaintiff.

19. On February 14, 1985, Melody Faul did publish, sign and circulate an affidavit with untrue statements re this plaintiff re 1977 when this plaintiff last saw her and helped her when she left New York. The affidavit was signed in Louisiana, the parish not stated. There had never been any problems with Melody. She proved to be inconsiderate and arrogant, while in plaintiff's home in 1977 after she had described the drug related environment she was in in New York before visiting Va., on her way home to Lafayette — after she gave up on being an actress. In 1985, she published her

"affidavit" to help the defendants in estate matters and her father was one of the heirs with provable estate plans of his own, for his benefit and the detriment of plaintiff.

20. Nellie C. Faul, former wife of E.J. Faul, and mother of Melody Faul, did publish, sign and circulate, an unsworn statement with untruths and hearsay concerning this plaintiff and such statements were referring to years earlier. The place and date were left off but the statement was circulated and represented as a "sworn staetment" with defendants Lois F. Bearb, et al and Forest Bearb's Renewed Motion for mental evaluation of this plaintiff on March 25, 1985, and on appeal of May 2, and 3, 1985, to the Court now ruling on original suits. Nell admitted that she and Melody had gone to New Orleans in 1977 and repeated Melody's misrepresentations and in 1981, E.J. Faul told plaintiff over the phone that Nell was working on making this plaintiff a "book case." Nell admits to not having seen this plaintiff for years and she produced copy of a perfectly good letter which plaintiff wrote her in 1977 explaining how Melody had been inconsiderate. Perhaps Nell would have been justified in making a book case out of the problems in their own immediate family. This plaintiff last saw Nell at Christmas 1975, at which time presents were exchanged and there had never been any problems.

21. Defendant William C. Gibson, (former deputy of Sheriff, Acadia Parish), Acadia Parish, La., was at all times relevant to this complaint residing in Acadia Parish, La.

22. On March 20, 1985, William C. Gibson, did publish, sign and circulate an affidavit with false and misleading statements re this plaintiff in relating a telephone complaint plaintiff had made to the Sheriff's office in1984, re Forest Bearb while Mr. Gibson and Forest Bearb were both deputies in Acadia Parish, and after plaintiff sued Forest Bearb. Mr. Gib-

son's affidavit was given in bad faith; he has never met plaintiff and left off pertinent complaint plaintiff had made to him re the false forgery statement and threats by his co-deputy, Forest Bearb.

23. All of the defendants knew the information they were submitting was false and misleading. The "affidavits" and statements were submitted in bad faith with malicious disregard for the truth to help the original defendants Lois F. Bearb et al, and Forest Bearb, or Lois F. Bearb, executrix of estate of Forest Bearb, with their scheme and to aid the doctor in arriving at and in supporting the "long-distance label."

24. On March 6, 1985, Charles Brandt, counsel for defendants Lois F. Bearb, Leslie Faul, Forest Bearb or Lois F. Bearb, executrix of estate of Forest Bearb, in breach of contract, obstructions and changing of drainages, etc., and civil rights suits, made misrepresentations to the Court in Opelousas, La., in writing from Lafayette in misquoting what plaintiff had said in a Court ordered telephone settlement conference the evening before (March 5, 1985) and there were subsequent misquotes and distortions by these defendants, in bad faith to discredit this plaintiff and make her appear as if she had a psychological problem to fit their "long-distance label" for their gain and to try to deny plaintiff due process. Above information was presnted to the Judge ruling on the above-mentioned cases against Lois F. Bearb et al., CV84-2541 and Forest Bearb ete al. CV 84-2540.

25. Additionally, since 1981, Lois F. Bearb, Leslie Faul and Forest Bearb, or Lois F. Bearb, executrix of estate of Forest Bearb, in La. have made misrepresentations concerning this plaintiff to accomplish their scheme and to plaintiff's detriment.

26. During the estate matters, Leslie Faul had threatened

plaintiff with the problem plaintiff had had with Grace Izena Kidder many years earlier (and in which she had been denied the sworn affidavits years ago when she tried to pursue her rights after having been a victim), in efforts to make plaintiff sign the partition, so that he and Lois Bearb could have the very best and at their price with "no bids". Lois F., Bearb, Leslie Faul, Forest Bearb or Lois F. Bearb, executrix of estate of Forest Bearb, have tried to use this against plaintiff in 1985, because plaintiff insisted upon bidding on the improvements of her deceased parents, and after plaintiff had been denied due process many years earlier.

27. In addition, the defendants, Lois F. Bearb, Leslie Faul, Forest Bearb, or Lois F. Bearb, executrix of estate of Forest Bearb, fraudulently sought to use the false diagnosis of Defendant Ally (and which they all knew was false) in a scheme to take unfair advantage of plaintiff in business dealings concerning estate property and published and circulated the false and discrediting information which they produced and solicited in bad faith, and knowing it was false to pursue their scheme, thus they should not be allowed to use the privilege claims where it might have been applicable in some areas except for their obvious and provable bad faith and for their selfish and unconscionable provable actions. (See 1 and 10 of this writing.)

28. The Plaintiff represented that she had voluntarily submitted to many psychological tests and complete evaluations, all of which verified that she does not have the mental problems and that no treatments nor therapy were recommended by doctors who completely evaluated and tested her, that she felt she had earned the right to be left alone by psychiatry and her family and she had in fact published a psychiatric will and objected to any interventions or treatments by psychiatry, and added that she was the only one who could

prove that she does not have the mental problems but that she did not and does not have to prove it to the deendants.

29. The affidavits, statements and information given by the defendants were false and misleading and in reckless disregard of the truth and of plaintiff's rights, some of the false statements were hearsay, and the diagnosis and "long-distance label" of plaintiff by Defendant Ally without even knowing or having talked with plaintiff was likewise false, misleading, in violation of accepted clinical procedures, and in reckless disregard of the truth and the rights of this plaintiff. All defendants knew or should have known that such false psychological labelling would cause plaintiff the damges herein set out.

WHEREFORE, plaintiff demands judgment against the additional defendants, jointly and in solido with Defendant Glenn A. Ally in the sum of $1,000,000 and for other further relief prayed for in plaintiff's original complaint. Plaintiff reserves the right to name others should it be necesary.

Respectfuly submitted,

/s/ Louella F. Benson
Louella F. Benson, pro se
6432 Montrose Street
Alexandria, Va. 22312
703 256 7595

STATE OF LOUISIANA
PARISH OF ST. LANDRY

BEFORE ME, the undersigned, a Notary Public duly commissioned and qualified in and for the State and Parish aforesaid, therein residing, and the presence of the undersigned competent witness, personally came and appeared; Louella Faul Benson, who upon being duly sworn, deposed; that she is the Plaintiff in the above titled and numbered petition, which she has prepared and read; that the allegations of fact therein contained are true and correct to the best of her knowledge.

SWORN TO AND SUBSCRIBED BEFORE ME this 14 day of March 1986.

My commission expires at death

Signed:
Ronald ı ı ı

U.S. DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
FILED
CV 86-0489
MAY 27, 1986
ROBERT H. SHEMELL, CLERK
BY _____
DEPUTY

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION

LOUELLA F. BENSON,
Plaintiff
VS.
GLENN A. ALLY, PH.D.
Defendant

Civil Action No. CV 86-60489
Section L

JURISDICTION

1. Plaintiff is a citizen of the State of Virginia and defendant is a citizen of the State of Louisiana. This suit is brought under diversity jurisdiction of the Federal Court. The matter in controversy exceeds, exclusive of interest and costs, the sum of ten thousand dollars.

COMPLAINT

2. That on March 6, 1985, and continuing up to and including the date of filing of this complaint, the said defendant Glenn A. Ally was a psychologist with offices at 116 Oak Crest Street, Lafayette, La. 70503, licensed by the State of Louisiana for the practice of psychology and held himself out to the public generally as being capable of practicing his profession and meeting adequate standards of his profession in the practice of his trade, that is, abiding by the required standards and not execising his authority to make certain diagnosis of psychological disorders on a person he never saw and who did not seek his services.

3. That in such capacity as set forth in paragraph 2 above, the defendant Glenn A. Ally, Ph.D., was required to exhibit the degree of caution, restraint, observation of requirements prior to attempting to make such a diagnosis or in writing his opinion, and he should have shown the degree of restraint,

skill and diligence employed by the ordinary prudent practitioner in his field of speciality as governed by the rules of his profession, and not have diagnosed such psychological disorders on a person he had never seen nor talked with. The Constitution protects one against such "long distance labels" to force one into the "psychiatric net" in efforts to deny due process, and in view of discrediting the person and the "things that flow from such a diagnosis". The defendant should have thought and looked further prior to the stroke of his pen, and should have been governed by "accepted clinical procedures", and not labeled plaintiff.

4. That on March 6, 1985, and continuing up to and including the date of filing of this complaint, the plaintiff Louella F. Benson, was and is a resident of the Commonwealth of Virginia.

5. Said plaintiff was going about her business with her ailing husband and working as an administrative-secretary-bookkeeper, had lived away from her family for years and had earned her own living, and she had never heard of, nor did she ever seek any services from Glenn A. Ally, Ph.D., nor does she now, nor will she ever.

6. Plaintiff requests that the Court enjoin Glenn A. Ally, Ph.D. from any involvements in the the life of this plaintiff and that he be enjoined from using his authority upon plaintiff for any reason, and that his "report" be expunged and that all of plaintiff's rights be respected. This plaintiff was not under the care or treatment of any mental health professional and can verify to the *Court*, if necessary, that none was needed. Since Dr. Ally ignored the requirements of his profession prior to making such a diagnosis, he did not bother to note that the "affidavits" were not sworn but stated that his diagnosis opinion was based on the sworn staements, and

he ignored plaintiff's provable complaints, his diagnosis-opininon is negligent and in bad faith.

7. That Glenn A. Ally, Ph.D. has never met, seen, or spoken with this plaintiff, but on March 6, 1985, he published a report, "a long-distance label", that based upon sworn statements provided to him (which sworn statements for the most part were sworn to on March 20, or 21, 1985, and Glenn A. Ally, Ph.D.'s opinion and diagnosis was made and published on March 6, 1985), the plaintiff suffers from chronic psychological disorder. Glenn A. Ally, Ph.D., without considering the motives and/or habits, or problems of the parties making such statements, or the validity of the statements, proceeded to label this plaintiff as delusional and paranoid, schizophrenia, paranoid type, which is one of the most serious diagnosis one can make in the mental area. The American Psychiatric Association's DSM, the bible of this profession, including psychologists, requires complete evaluation of the person , extensive testings, accepted clinical procedures, personal knowledge of the person, and a three- to six-month period prior to making such a diagnosis.

8. This plaintiff had filed prior suits for damages for obstructions of public and private drainages, etc., breach of contracts, general damages to plaintiff and damages to her property, and for false statements and civil rights violations and did not place her health in controversy. After the Court denied the defendants' first motion for a mental evaluation of plaintiff in cases referred to, counsel for defendants and defendants obtained from Glenn A. Ally, Ph.D., the March 6, 1985 "report" as above-described which he published and which was circulated and used to discredit plaintiff. Dr. Glenn A. Ally's "report" was used to file a Renewed motion for mental evaluation of plaintiff and which the Couirt again denied and fined the defendants for filing a frivolous motion. The

Court said that "Federal court is not a forum designed for the convenience of embittered relatives to wage an uncheck battle of harassment." The decision was affirmed on appeal.

9. The "long distance label" is defaming, discrediting, has caused plaintiff to suffer general damages of humiliation, embarrassment, harassment and related damages and other damages to be specified upon trial of this action.

10. After plaintiff filed suits for breach of contracts, obstructions and changing of public and private drainages, etc., about Sept. 1985, Charles Brandt (counsel for defendants Lois F. Bearb, Forest Bearb and Leslie Faul), although he had never seen nor spoken with plaintiff, at some time approximately in November-December of 1985, represented untrue information about this plaintiff to her counsel at that time in Lafayette, and such information which the defendants knew was untrue and discrediting, that plaintiff was a mad woman, etc.

11. On Jan. 10, 1985, the defendants, Lois F. Bearb, Forest Bearb, and Leslie Faul, represented falsely and circulated that plaintiff's psychological condition was in controversy and which they again knew was false but which was a part of their scheme to take unfair advantage of plaintiff in business dealings concerning estate property.

12. On March 6, 1985, Charles Brandt, counsel for defendants Lois F. Bearb, Forest Bearb and Leslie Faul in abovementioned suits made misrepresentations to the Court in Opelousas, La., in writing from Lafayette in misquoting what plaintiff had said in a Court ordered telephone settlement conference the evening before, and there were subsequent misquotes and distortions by these defendants to discredit this plaintiff, to make it appear as if she had a psychological problem for their gain and to try to deny due process.

13. On March 6, 1985, Glenn A. Ally, Ph.D., in Lafayette, La., wrote, signed "report", his long-distance labeling of plaintiff as delusional and paranoid, schizophrenia, paranoid type, based upon "sworn statements" and not any of these statements were sworn statements or affidavits (except that of Melody Faul, daughter of E.J. Faul, see No. *19* because they were not sworn to before March 20, 1985, or in the case of E.J. Faul, on March 21, 1985, and Glenn A. Ally, Ph.D., who has never seen nor spoken with this plaintiff, circulated this "report" as did the defendants, see Nos. *14, 23*) of this writing. (See also No. 7 of this writing.)

14. On March 20, 1985, Lois F. Bearb published, signed and circulated an affidavit with false and hearsay statements re many years earlier and circulated it in efforts to falsely portray plaintiff and place her in the "psychiatric net" in efforts to deny her due process and to try to justify their actions and scheme to take unfair advantage of plaintiff in business dealings concerning estate property. (After the Court denied the defendants' first motion for mental evaluation, Lois F. Bearb, et al., Forest Bearb, maliciously and in bad faith to continue the *scheme*, solicited affidavits from E.J. Faul and Grace Izena Kidder (two of the other heirs who had previously joined Lois F. Bearb, et al. in suing this plaintiff in estate matters, E.J. Faul et al. vs. Louella F.Benson, et al, 1983 CV 89, 191-B) and from her own son Malcolm Bearb, and from the daughter of E.J. Faul, Melody Faul, and his wife at that time Nellie C. Faul, and from Melvin Kidder, the husband of Grace Izena Kidder, and from AcadiaParish former police deputy, William C. Gibson, to whom plaintiff had made a verbal telephone complaint only, re Forest Bearb in 1984, who was also a deputy in Acadia Parish), and on March 25, 1985, Lois F. Bearb et al., and Forest Bearb circulated all of the above to the Court along with Glenn A.

Ally, Ph.d.'s *March 6, 1985* "report", and represented that "plaintiff does not have mental capacity to represent self", and that "plaintiff is suffering from schizophrenia paranoid type", "contention of defendants that the allegations which have been made by plaintiff are a direct and a consequential result of the mental condition of the plaintiff and not the result of any activities by defendants." (The place as to where Lois F. Bearb published her affidavit was left blank as to the parish.)

15. On March 20, 1985, Izena Kidder did publish, sign and circulate an affidavit with untrue staements, and years earlier — 60's on, made false, secret representations re plaintiff and repeated this to others in La, and had in fact, denied plaintiff a sworn affidavit years earlier. As to place, the affidavit only shows that it was sworn to before Wade S. Faulb, La.

16. On March 20, 1985, Melvi Kidder did publish, sign and circulate an affidavit in La. with untrue statements and hearsay re many years earlier and had in fact denied plaintiff a sworn affidavit years earlier. (See Nos. 13 & 14 Amendmennt to Original Complaint.)

17. On March 20, 1985, Malcolm Bearb, at Lafayette, La., did sign and publish an affidavit with untrue statements re this plaintiff re 1975. (See No. 16 to Original Complaint.)

18. On March 21, 1985, E.J. Faul, did publlish, sign and circulate an affidavit at Lafayette, La., with untrue and hearsay statements concerning this plaintiff re years earlier, and on June 20, 1981, he did state that "he knew a doctor who would help him put plaintiff in an institution if she came to Lafayette", and that his estranged wife was working on making plaintiff a "book case", all during a long-distance call from La. to Va., during estate matters which was the last conversation between plaintiff and E.J. Faul. During the last quarter of 1975, the last time plaintiff saw E.J. Faul which was in

St. Landry Parish at the Faul estate, he stated that "what plaintiff said did not matter any more." During the estate matters since 1981, Ewell J. Faul has again made misrepresentations re this plaintiff in Louisiana, with threats and plans to plaintiff's detriment.

19. On Feb. 14, 1985, Melody Faul did publish, sign and circulate affidavit with untrue staements re this plaintiff re 1977. The affidavit was signed in La. (See Nos. 19 and 20 of Amendment to Original Complaint.)

20. Nellie C. Faul, did publish, sign and circulate, a statement with untruths and hearsay concerning this plaintiff and such statements were referring to years earlier. Her statement was not notarized, and the place and date were left off but the statement was circulated with Lois F. Bearb, et al. and Forest Bearb's Renewed Motion for mental evaluation of this plaintiff on March 25, 1985 and on appeal of May 2, and 3, 1985.

21. On March 20, 1985, William C. Gibson, did publish, sign and circulate affidavit with false and misleading statements re this plaintiff in relating a telephone complaint plaintiff had made to the Sheriff's office in 1984, re Forest Bearb while Mr. Gibson and Bearb were both deputies, and after plaintiff sued Forest Bearb. Mr. Gibson has never seen plaintiff, and left off pertinent complaint plaintiff had made.

22. On April 30, 1985, Leslie Faul did publish and circulate an unsworn statement with untruths concerning this plaintiff to the Judge in Opelousas who is ruling on the suits in estate matters for breach of contracts, obstructions and changing of drainages and etc. and a civil rights case.

23. On May 2, and May 3, 1985, Lois F. Bearb, et al. and Forest Bearb again presented the false information mentioned in No. 14 of this writing to the Judge in Opelousas, who is ruling on the above-mentioned cases. This discreting in-

formation was circulated to the Clerk's office in Shreveport, La. also, as ell as to the Magistrate in Lafayette, La.

24. On March 23, 1984, Forest Bearb, did fasley state, on pliantiff's farm in St. Landry Parish, La., that plaintiff had committed forgery in Houston and that they were working on it and would nail her and other false statements, all in the presence of plaintiff's employees at her farm. At a time after March 23, 1984, and in March 1984, Forest Bearb, misrepresented to the person investigating above matter that this plaintiff was crazy during a telephone conversation from Acadia to St. Landry Parish, and in 1985, Forest Bearb made other false representations re plaintiff under oath.

25. All sorts of things flow from this diagnosis, it causes plaintiff to be treated differently, it impairs relationships, it affects the plaintiff's right to own property without unwaranted interventions, it prevents a person from obtaining certain licenses (plaintiff had plans to obtain a license to practice law), it has made this plaintiff vulnerable, and it prevents one from seeking political office at any level, a constitutional right which this plaintiff had been asked to consider in the past and which she would like to be able to consider in the future. Such a label discredits plaintiff in any undertaking and it is inconsistent with life, liberty and the pursuit of happiness and it violates the rights to privacy and to be left alone.

26. Also, such a label makes one a candidate for research in certain areas and in the words of Dr. Jonas Robitscher, psychiatrist, lawyer and professor at Emory University and author of the "Powers of Psychiatry" (1980), "Psychiatry has developed so many treatment methods that almost anything could be done in the name of therapy. A great many opportunities had developed for the abuse of psychiatric authority, but this was usually ignored. . ." Dr. Robitscher writes ". . . the act of diagnosing places a person in an inferior posi-

tion and threatens his job security, family relationships, and self-concept." He warns about "extending the psychiatric net so that more people are encompassed within it" and reminds us that the holocaust had its roots in psychiatric practice which Hitler extended to "Jews, Negroes and Mongols". "In 1939 a program of sytematic killing of mental patients began under the sponsorship of Max de Crinis, preofessor of psychiatry at the University of Berlin, and more than a dozen other professors of psychiatry and departmental chairmen. Gas chambers and crematoria were set up in six psychiatric killing centers with a psychiatrist, Werner Heyde, in charge of the administration of the program. By 1941, according to a contemporary letter writen by a doctor, there had been "the elimination of a few hundred thousand mental patients."

27. At pg. 343 of the "Powers of Psychiatry", Dr. Robitscher writes how the stigma of mental illness was used to impair Martha Mitchell's credibility when she was indeed telling the truth. A few years back Sen. Goldwater was harmed by psychiatrists who wrote opinions concerning his "mental stability" in a report where they indicated they saw indications of personalilty disturbance and instability without knowing the senator and he recovered damages. Organized medicine condemned evaluation without personal examination. Donovan Ward, who was president of AMA, in an official statement for his organization said that "a physician can properly arrive at a medical opinion on the health of an individual only by following accepted clinical procedure, including personal examination of the patient." Dr. Robitscher was critical of "long-disance" labeling and Dr. Eugene Meyer, a psychiatrist, wrote a letter to the editor of the *Washington Post* a while back saying that such diagnosis cannot be made without evaluation of the person, plus certain tests. In Maryland a psychiatrist was sued a few years back for writing a report saying a gentleman was "mentally deranged". Gregory Delia

sued because he said the letter was in his record and that anytime he would apply for a job or whatever in the future the report would be there. (Plaintiff is in the same position.) The Maryland Court of Appeals has ruled that it was a litigable issue for a jury. How can the defendant psychologist justify his long distance label. As in these cases the stigma of mental illness is being used to discredit this plaintiff, deny her due process. (See No. 14.)

28. Glenn A. Ally, Ph.D. could well have looked into the contents of this plaintiff's pleadings before he lend his name to try to bring this plaintiff into the "psychiatric net" with efforts to deny her due process without even knowing plaintiff. One visit to her property following a rain would have given plaintiff credit and perhaps he would have questioned the motives and/or problems, as applicable, of the persons who signed the "sworn statements" etc. and the validity of same, which statements were not sworn to before two weeks after Glenn A. Ally, Ph.D.'s opinon and diagnosis. Plaintiff had denied under oath the false "forgery" statements prior to March 6, 1985.

29. That in violation of the standards and requirements of his profession that Glenn A. Ally, Ph.D., carelessly and negligently lend his name, igoring accepted clinical procedures needed, and labeled this plaintiff as having a serious psychological disorder, without knowing or ever having seen or talked with plaintiff and without regard for her and for the standards and requirements of his profession in making such a diagnosis as above mentioned.

WHEREFORE Plaintiff asks for judgment as follows:

1. That Glenn A. Ally, Ph.D.'s report be expunged in view of the fact tht he ignored the rules and standards of his profssion in making such a diagnosis; this plaintiff did not and

is not placing her health in controvesy but is only seeking the protection of any American citizen, along with the same considerations anyone has the right to expect, without being forced into psychiatry. The defendant has defamed this plaintiff, violated her rights and in so doing he violated the rules and standards of his profession as documented in the foregoing.

2. That Glenn A. Ally,Ph.D. be enjoined from any involvement in the life of this plaintiff and that he be enjoined from using his authority upon her for any reason.

3. Plaintiff seeks judgment against Glenn A. Ally, Ph.D., in the sum of $1,000,000 for his actions as aforementioned and states that she will continue to experience irreparable general damages due to the "long-distance label" which violated the rules of his profession and plaintiff's rights and defames her.

4. That the negligence and carelessness of the Defendant as aforementioned was reckless and in careless disregard of the rights of Plaintiff and the consequences of his careless actions in defaming Plaintiff, constitutes a gross breach of the standards of his profession to the detriment of this plaintiff.

NOW THEREFORE, the Plaintiff does move for an additional judgment against the Defendant for punitive damages in the amount of $1,000,000 and for all costs of these proceedings.

Plaintiff reserves the right to name others in this complaint if it becomes necessary.

/s/ Louella F. Benson
Louella F. Benson, pro se
6432 Montrose Street
Alexandria, Va. 22312
703 256 7595

STATE OF LOUISIANA
PARISH OF ST. LANDRY

BEFORE ME, the underisgned, a Notary Public duly commissioned and qualified in and for the State and Parish aforesaid, therein residing, and the presence of the undersigned competent witness, personally came and appeared: Louella Faul Benson, who upon being duly sworn, deposed: that she is the Plaintiff in the above titled and numbered petition, which she has prepared and read; that the allegations of fact therein contained are true and correct to the best of her knowledge.

/s/ Lowella F. Benson
Louella Faul Benson

SWORN TO AND SUBSCRIBED BEFORE ME this 6 day of March, 1986.

Signed: Sue Soileau
My commission expires at death

Q You mentioned the Faul Energy Company that you had at one time.

A Yes.

Q When did you have the Faul Energy Company?

A It was in either '82 or '83. Let's see, probably '84, 1984.

Q What does the Faul Energy Company do?

A Look for oil and gas, or it did look for oil and gas.

Q Did you have any Federal contracts?

A No, I did not.

MR. BRANDT: I object. This is irrelevant.

THE COURT: What's the relevance of contracts with this company?

MRS. BENSON: Well, there was a reason, Your Honor. There is —

THE COURT: You may have a reason but I need a reason.

MS. BENSON: Yes, I will give you my reason.

THE COURT: No, I mean, what reason for the case? Is that relevant?

MRS. BENSON: Maybe I can answer your question, by asking another question, then if it's not answered, I will try to answer it.

THE COURT: No, that's not the way we do it.

CONNIE S. EZELL
Official Court Reporter

U.S. DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
FILED
MAY 27 1986
ROBERT H. SHEMWELL, CLERK
BY DEPUTY

6432 Montrose Street
Alexandria, Va. 22312

Oct. 20,1986

Honorable Robert H. Shemwell, Clerk
United States Western Districdt
106 Joe D. Waggoner Federal Bld.g
500 Fannin Street
Shreveport, La. 71101

RE: Louella F. Benson vs.
Glenn A. Ally, PhD. et al
CV86-0489 - L

Dear Mr. Shemwell:

The attached is my list along with the enclosed exhibits to be attached to my Motion For Reconsideration of Order and Memo Rulings of October 8, 1986 and Opposition to Motion for Default of Oct. 18, 1986. (Also attached is one copy each of the Motion to Evaluate E.J. Faul and my affidavit of 10/18/86, in support of same, a copy of my 1985 affidavit and attachments re E.J.Faul, my affidavit of Oct. 18, 1986 re psychological testings and attachments, and a copy of my affidavit of Oct. 18, 1986, re request for verification, etc. The originals were sent to you on Oct. 18, 1986.) Enclosed is a self-addrssed envelope with postage.

An important point not to be ignored prior to granting ~~any~~ any summary judgments or default judgments and/or with prejudice is that the *trial* in CV84-2541 was again delayed against my wishes to Jan. 1987, as explained in my letter to you attached with exhibits of Sept. 11, 1986. Not allowing discovery and granting summary judgment with prejudice is very helpful to the defendants in subject case, as are delays in CV84-2541 but it is extremely harmful to me. After I filed subject suit, both CV84-2540 and CV84-2541 were dealyed. CV84-2540 is on Appeal before the Fifth Circuit. Due to the fact that

CV84-2540 is also very much related to subject case, I am attaching a copy of my appeal brief filed on July 30, 1986, along with the attachments, and of my reply brief and attachments filed on Sept. 8, 1986, in support of my motion for reconsideration and in opposition to motions for summary judgment and/or default, etc. (Both counsels were copied with these briefs and attachments at the time of filing with the Fifth Circuit thus they already have this information.) As to CV84-2541, I am adding additional documents on the attached list in support of my motion for reconsideration and in opposition to default and/or summary judgment and/or with prejudice. These materials also offer additional information as to why I should not be made to pay any costs or legal fees or sanctions, and in fact, my position is that unless I am allowed my day in court with discovery and copies with everything that it amounts to obstructions of justice and a furtherance of the conspiracies, all to my detriment.

I would call also specific attention to Mr. Brandt's letter to Judge Shaw of March 6, 1985, my response to Brandt with a cc to Judge Shaw on March 9, 1985 (which were some of the documents which had been sent to Judge Walter in rebuttal of Mr. Brandt's letter to Judge Walter and attachments of June 12, 1986, but which were returned to me with an order not to communicate with his office, that they did not accept filings.). These and other documents, had been sent to the Judge after counsel wrote him, including correspondence to the Magistrate in 1985 when I was trying to pursue discovery in those cases which prompted the letter from the Magistrate to me — which Mr. Brandt sent Judge Walter. I call attention to the fact that as shown by copies of my answers to their interrogatories in Jan. of 1985, Mr. Brandt was making distortions,[1] and misrepresentations to try to

[1] It was the defendants who had not answered questions then as in CV86-0489.

make me look crazy in his letter of March 6, 1985, reporting to the Judge in that case re the now famous telephone court ordered settlement conference of the night before. If you will note — Ally's "report" with the long-distance label — is also on March 6, 1985, the day after the night of the private and confidential telephone settlement conference and note that he describes my "speech". Of most importance are the interrogatories Mr. Brandt refused to answer in 1986, including re the private and confidential telephone settlement-conference, computer diagnosing, etc. Ally had no business being in on the settlement conference in any way (the Court had already denied their first motion inspite of Mr. Brandt's affidavits and he did not know me) and I did not know anything about Ally, nor was I told, nor would I have wanted him in the picture, and he could not have anything to do with me without my knowledge or consent under any circumstances and my pleadings did not warrant any such thing. Mr. Brandt very much distorted and misrepresented what I said in his letter to the Judge to make me fit the long-distance label and then he refused to answer as to who he had shared it with, and Ally refused to answer interrogatories pertaining to this and other matters including his having described my "speech". What I am saying is that in addition to the "sworn statements" being untruths and distorted untruths which the defendants did not even see (and which is unconstitutional as to the Kidders and the efforts of the defendants to use this in 1985 and on-going after they denied me affidavits years ago as shown in the attachments), Ally's report is also based on distortions and misrepresentations re the settlement conference and all of which is illegal. Please look at the affidavit Ally presented in 1986 for summary judgment, and the truth is he did not have anything at all from me from what he said under oath he had reviewed. How then can he diagnose "thought disorders" "completely unrelated matter", "placing blame on others

for her own circumstances, etc," describing my "speech" etc. At that point there were three affidavits by me in the record in Jan. of 1985, to evaluate Dep. Bearb and to evaluate Lois F. Bearb and Leslie Faul. Why wasn't he given these affidavits and copies of my pleadings which the Court had already ruled had nothing to do with psychiatry and the defendants knew that I had volunteered for testings and evaluations and could prove with objective scientific evidence that I do not have the mental problems. How does Ally know what is related, there has been about 20 years of abuses. The fact is there is not anything in my writings which do not make sense and do not relate to the cases in some way. As to blaming others, my evidence in the record shows that unlike what the defendants represented to the Court and as per Ally's long distance label that my complaints were all in my mind, I have impressive evidence from S.J. Langlinlais & Asscs., an engineer who did a study of the drainage and access problems, coupled with the testimony of three men in the area who were familiar with the Faul esate prior to the actions of the defendants, all of who support my position in CV84-254 and the report of Ken Katsaris, who has advance degrees in police matters, who reviwed many documents, including Dep. Bearb's answers under oath and then submitted the report made available to this Court, plus my eye witnesses in this case too as shown in the Brief. Too the prior letter of 11/79 from the Bearbs showing that there were no problems before they didnot want me to bid on the improvements of my deceased parents which his wife is still trying to get. The record shows it was me who made proposals, compromises and took losses; they sued me. I took losses in view of their agreements; then they breached the agreements and they are trying to breach them more and obtain the property after I spent over $30,000. in remodeling. While they accused me falsely of forgery in 1985, which they kept secret from me

until I had money to buy property, I can prove that I have been the victim of fraud and forgery and that I have never committed any crimes. While they represented to the Court that I was not competent to represent myself I have already represented myself pro se where I was the victim of fraud and forgery and won including on appeal. A close look shows that the defendants do not have anything to stand on. Dr. Ally has harmed me in making such a "long-distance" label and ignoring the required procedures. There are important reasons why such labeling is condemned by the medical profession and this is a classic example, and it has served to discredit me and prevent me from obtaining my rights, pursuing due process as an American and the real and on-going damages. Since there is evidence that counsel has made misrepresentations, distortions to try to make me look crazy and he contacted Ally, and there is evidence that the defendants lie under oath, how can Ally possibly get summary judgment or how can the defendants obtain summary for default or public policy considerations in view of matters documented in the record and with these filings. How can one justify no discovery re these defendants, including the Faul Energy Co. To confer with counsel over the phone would give him another opportunity to misrepresent, exploit and distort to make me fit the label. I did write many letters, including certified letters and I answered their interrogatories that were relevant without a conference. I did call counsel's secretary and asked that he be reminded. I did write counsel and suggested he write me about it and I would answer, thus I could have a record of what transpired. As shown there are a number of outstanding interrogatories after April 19, 1986, which weren't included in the motion to compel. There are criminal matters involved here in my opinion, and I would beg the Court to reonsider and grant my motion for reconsideration of the rulings of Oct. 8, 1986, including re the motion to com-

pel answers to the interrogatories of April 19, 1986. The defendants have already created a great deal of harm in my life for years as to the family defendants and to grant them summary judgment and/or with prejudice would be concealing these abuses and encouraging more which is detrimental to my life and I can prove totally unwarranted. "Secret processes" are unconstitutional; secret "treatments" are criminal and civil violations and especially on a person who can prove she does not need any treatments. There are other areas of abuses in economic areas where they have made me pay more; there is too the $900 plus re my interest that Leslie Faul did not remit before after I filed suit and the other abuses documented. If they could confirm their "long-distance label" there would be still more abuses, thus in view of the threats, plans and fraudulent schemes, and my objective scientific evidence that I do not have the mental problems, and since I expressly stated that I was not placing my health in controversy, I must ask that my psychiatrist & will be respected. This case can be proved by the matters in CV84-2540,CV84-2541 and in the estate suit where they sued me. I will insist that those in the business of treating me be brought to justice for such crimes through the system and at all levels with the world watching. I still have not received certifications and/or copies with certification from the Clerk as I have been requesting. I still do not know what the Judge

reviewed. Attached with the cancer report is evidence of much toxics on my land by chemist.

Respectfully submitted,

/s/ Louella F. Benson
Louella F. Benson, pro se
6432 Montrose St.
Alexandria, Va. 22312

c:
Charles Brandt, Esq. with attachs.
HOmer Ed Barouse, Esq. with attachs.

My opposition Memorandum to Motion for Sanctions and other ways in which I have been harmed will be mailed on 10/22 to be received ı ı ı

List of Exhibits to be attached to Motion for Reconsideration of Order and Memo Rulings of Oct. 8, 1986 and Opposition to Motion for Default of Oct. 18, 1986: (including for reconsideration of Motion to compel answers and for change of venue)

1. Letter: to Clerk of Sept. 1, 1986 from LFB (See note from SM at bottom)

   Letters to Clerk of Sept. 25, 1986 from LFB with copies of dockets in both CV84-2540 and CV84-2541 encircling materials requested and certification of what was furnished the Court.

   Letter from Clerk to LFB of Oct. 1, 1986 returning check and sending the dockets sheets again instead of information requested.

   Letter to Clerk of Oct. 1, 1986 sending back check and again encircling name information requested in both cases, with copy of check of 9/3/86 and first sheet of Ally's motion for summary judgment. No responses re these matters, verifications, certifications or copies of statements of affidavits.

   Ltr. to Clerk of Oct. 15, 1986 from LFB.

   Ltr. to Clerk of Oct. 15, 1986 from LFB.

   Ltr. from LFB to Clerk of May 6, 1986 with copies to Brandt and Judge for answers to interrogatories of 4/19/86. Note statement that I opposed psychiatric examinatiions.

   Ltr. from LFB to Clerk of June 27, 1986 with note to Brandt to have E.J. Faul answer second set of interrogatories.

   Ltr. from LFB to Brandt of Aug. 14, 1986 sent certified asking for defendants' answers to interrogatories sent to

them on 4/19/86 and subsequently (which are not protected by Court Oder.)

Note where I informed counsel to keep the cops, defendants and their doctors out of my life which hardly justifies their psych's bills at $185.00 per visit, and who I can prove I do not need to see. Expressly stated in pleadings I was not placing my health in controversy.

Ltr. from LFB to Brandt of Aug. 29, 1986 sent certified with reminders to have defendants answer the interrogatories of April 19, 1986 and thereafter, and requesting copies of documents, affidavits, etc.

Ltr. of Aug. 25, 1986 from LFB to Brandt, telling him to write if he has any question and again asking that defendants answer interrogatories and specifically asked for answers from Ally re "long-distance label and telephone settlement of conference" and other pertinent questions.

Note in Aug. 14, 1986, letter where I explained to counsel why I did not want to confer with him.

Also attached are copies of Brandt's ltr. to Judge Shaw of 3/6/85 (the day after the night of the telephone settlement conference, and the same day as Ally's long-distance label describing my *speech*), with untruths and distortions and my response of 3/9/85 to Brandt with proof of untruths, and copies of my answers to their interrogatories in Jan. of 1985 re both cases (other questions answered later), copies of my interrogatories to Brandt of March 15, 1985, which he refused to answer and contents of my motion to compel answers.

Also attached are copies of recorded deed between Leslie Faul and Lois F. Bearb of 12/9/83 (when she went to *Kidder's* lawyer, deed signed by Leslie Faul on 3/5/84

and letter saying the property was mine (see my cancelled checks in 1983 all deeds have been recorded. Also a copy of counsel's ltr. of 4/9/85 saying Leslie Faul's affidavit was discarded and did not meet standards. See brief to Fifth Circuit where Dep. Bearb's affidavit was discarded because it was not factual. God how they lied!

2. Ltr. from Sheriff Doucet to John Reed, Esq. of 5/4/76; Ltr. from John Reed, Esq. to Morgan Gudeau, III, D.A.of 5/18/76
Ltr. from Morgan Godeau, III, D.A. to John Reed
See rebuttal of Kidder's unconstitutional affidavit of 1985 in the record submitted with opposition to E.J.Faul's motion for mental evaluation and note that Lois F. Bearb went to Izena Kidder's lawyer in Dec. of 1983 to write the deed and she is still trying to get my property, in addition to using those past abuses where I was denied my rights in 1985 and ongoing.

   Ltr. from LFT to Court of May 7, 1986
   Ltr. from LFB to Court of June 9, 1986

   E.J. Faul's plan letter of Oct. 23, 1981, witnessed by 2nd x-wife Nellie who stood to gain from his actions at that time

   LFB's Bid of 10/29/81 to Leslie Faul

   Leslie Faul's response of No Bids of Nov. 6, 1981, with threats of "I have already won it and will fight you in the courts or otherwise to keep you from getting it." (This is what their "mental evaluations and Russian style railroading is all about only here they are being allowed to cover up. There were two others who had not signed the partition when they sued me and see report of Oct. 18, 1986 re Leslie's untruths in second paragraph of ltr. to Mr. Foret. He did not include Mr. Foret's letter to him.)

4. Pages 140, 148 andI.D. of Lis F. Bearb's testimony of 2/5/86 in related cases.

5. Joseph L. Benson's affidavit submitted to Court in opposition to Summary judgment and now submitted in opposition to summary and/or default judgment and/or with prejudice. Also attached is a copy of part of brief ~~filed~~ on 4/16/85 in other cases in opposition to mental evaluation where* I explained I could prove I do not have the mental problems.

6. Copies of Court's rulings in CV84-2540 and CV84-2541 re mental evaluations of Jan. 21, 1985 and Apr. 23, 1985 fining the defendants and warning re harassment; affirmed on appeal; copy of counterclaim by Dep. Bearb; See response in Copy of Appeal briefs to Fifth Circuit attached and documents previously made available to this Court showing I was the one who took losses and made proposals, complete denial of discovery — see pages from my testimony attached to my briefs and my affidavit of Jan. 1985 with my motion to evaluate Dep. Bearb mentally and physically which was pending for six months and never ruled on. Also attached is a copy of check from Brandt in payment for three defendants. Lois Bearb testified she had not been fined as quoted in response of 10/18/86. See Counsel's motion for mental evaluation requested by E.J. Faul in this case where counsel refers to E.J. Faul being the one causing this in 1985; see my rebuttal to E.J.Faul's affidavit of 1985 in support of same and evidence of lies under oath and I have not even been able to learn if any statement or affidavits were presented to the Judge this time around.

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*See also where I told E.J. Faul in 1981 over the phone of such evaluation attached to my affidavit of Oct. 18, 1986.

7. Ltr. from LFB to Clerk of May 9, 1986 with some of Dep. Bearb's answers under oath and showing that he was using past abuses in 1985 where I had been denied my rights, and last page of letter from the Bearbs to me in 1979 showing there were no problems then at the time of his first by-pass before after I insisted on bidding on property they wanted for less and which Lois F. Bearb still wants now that her husband can no longer object to her bidding more, and answers from Lois F. Bearb's 1985 answers to interrogatories which show that she was going to use her husband's evidence; and documents requested "not any of this is in my possession at present" in the spring of 1985 but she testified that they burned in the fall of 1985, including financial records. See briefs. See 1-A.

8. Second set of interrogatories to Lois F. Bearb, July 17, 1986, and Izena Kidder of June 11, 1986, and interrogatories to Leslie Faul of July 17, 1986, to Nellie C. Faul, Melody Faul and Malcolm Bearb also of that date not any of which have been answered and not protected by the Court Order — See letters to counsel at No. 1. Please review interrogatories to Ally, L. Bearb, E.J. Faul and Izena Kidder of 4/19/86 and not answered in record. See also, attached to Interrogatories to Malcolm Bearb, Nellie C.Faul and Melody Faul are *my rebuttals to their 1985 affidavits with untruths which were rejected by the Court. Attached too is a copy of my husband's affidavit in rebuttal of Melody Faul's lies under oath. Opposition to Motion for sanctions will be sent 10/22 — please refer to un-answered interrogatories,* my rebuttal affidavits and my husband's affidavit re their requests for fees, costs and sanctions and for default judgment. See also attached to my rebuttal of Nell's 1985 statement with untruths

but referred to as an affidavit, is a copy of the letter I had written Nell after Melody's visit which she refers to in her statement but which counsel did not enclose because it proves my position and what happened. *All this is important.* Also, please review questions which Lois F. Bearb, Leslie Faul and Izena Kidder refuse to answer in view of ongoing abuses, questions Malcolm Bearb refuse to answer. See also my ltr. of July 1, 1986 to Brandt re sanctions etc.No. 8 also. See copies of my affidavit of 10/18/86 in opposition to sanctions.

9. Ltr. to the Clerk of Oct. 14, 1986 re attachments to my
10. opposition to supplement for summary judgment by the Faul Energy Co. which the Clerk had returned and which I returned to the Clerk to be filed in support of my opposition. My point was to show what had not been done; no discovery and very pertinent crucial questions. *Please* review my third set of interrogatories to E.J. Faul of Oct. 8, 1986 re the Faul Energy Co. and re "mental treatments". The Court admitted supplement before I had a chance to answer. Counsel for the defendants' requests are expedited since he is allowed to communicate with the Court and I am not, coupled with a geographical problem. Also, attached is a copy of second set of interrogatories to E.J.Faul of June 10, 1986 and not any of this is protected by the Court order denying motion to compel answers. Interrogatories of 4/19/86 attached, to E.J. Faul, were extremely important and addressed the Faul Energy Co. but not answered inspite of my letter of May 6, 1986 to counsel and court and many valid reasons and evidence of abuses when I confer with Counsel over the phone and previously explained to this Court. The same is true of interrogatories to Ally and Lois Bearb and Izena Kidder of 4/19/86 all in the record. Ally made a long-distance label, condemned by organized

medicine without knowing me etc. and he does not have to answer questions, and the others are using past abuses when I was denied my rights and suffered much from "secret processes" and untruths for years but they do not have to answer any questions and are free to continue such abuses inspite of my rapidly fading physical health, and Bearbs et al are trying to obtain my property, and to my knowledge I am the only one with objective scientific evidence that I am indeed sane and do not need mental treatments. (Also attached to this were copies of interrogatories sent to Brandt in 1985 which he refused to answer. Copies of plans and no bids by E.J. Faul and Leslie Faul of 1981 and my bid at that time were also attached to opposition of supplement, along with copy of issues contested by Lois F. Bearb et al in CV84-2541 on2/21/86; copies of letters to Charles Brandt of Aug. 29 and 25, 1986 with certification on 29th and copy of first page of Ally's motion for summary judgment, all of which were returned to the Clerk to be filed in opposition of supplement and/or summary judgment. The questions to Ally and re Faul Energy were crucial and how could I completely answer their interrogatory re Faul Energy when I was denied all discovery while they again seek a "mental evaluation."

11. No. 11 are three chemical analyses of toxic wastes (high concentrations on my land at three different times and the same thing as found in the public ditch and the Coulee which overflows on my land due to obstructions, and which is dangerous to people, animals, fish, crops, plants, trees. Although I was told that permission was obtained from the other heirs to do such things on my land when I had expressly said not to, and I became sick, and still am from exposure on June 2, 1986, I cannot obtain answers but they want default with prejudice with

no answers re anything and prior to the trial in CV84-2541 which has been delayed twice as they sit on obstructions.

Counsels already have Subra's report of Feb. 13, 1986, and know that she is listed as a witness in other cases, but they should now be informed that the reports of *May 28, 1986, and of July 16, 1986 will also be entered in CV84-2541,* and in CV84-2540 if allowed.

12. No. 12 is the first page of Judge's Shaw's ruling of April 3, 1986, in CV84-2540 in which he stated "The plaintiff concedes and the evidence shows that her only damages as a result of this incident were to her reputation." Plaintiff very much disagrees with this as shown in her testimony and in briefs attached which both counsels were copied with at the time of filing with the Fifth Circuit. The complete order is in the exhibits of my brief to the Fifth Circuit attached.

13. No. 13 is a copy of my filing for injunction in CV84-2541 after I got sick in June, 1986 along with testimony of three men in the area of my farm who were familiar with the Faul estate prior to the actions of Lois F. Bearb et al, report by S.J. Langlinlias and Assocs. Engineer, contracts, acceptance, cancel checks, E.J. Faul's "plans" etc. copy of writ of seizure re Bearbs and E.J. Faul. Also attached is a copy of written appraisal of 10/17/83 which showed that they went up on the price after they decided on their "agreements". I did agree to and did pay more, but one would think they would have let me enjoy it. Leslie Faul had said no one would pay more than $15,000. for the house and a lower figure had been mentioned for others. After I purchased the barn an appraiser told me it should be destroyed, and I see where it was

$1,500. He offered to testify about that, the obstructions in the public ditch and the barb wire (at the entrance of the Bearbs' "new mud passage" after they destroyed the Limestone Rd. upon which I had been assured full access — see agreements) on the morning of the night I was falsely arrested by the laughing troopers, but I learned later that he came across so many problems afterwards that he was in a half-way house. (mailed on 6/15/86) Also attached to No. 13 are my filings of 6/24/86 and that of Sept. 11, 1986, with attachments including my husband's affidavits)

14. No. 14 are my Exhibit lists in CV84-2540 and CV84-2541 filed on 2/21/81, along with the Facts plaintiff intends to prove at trial in each case filed on 3/21/86, my witness list in each case and pretrial stipulations filed on 2/21/86. (Counsels have this informations so I am only sending No. 14 to the Court but counsels are being furnished with other exhibits other than the briefs in 2540 filed for appeal.)

15. No. 15 is a copy of Mr. Brandt's ltr. to the Judge of 6/12/86 with a copy of the Magistrate's ltr. to me of 8/27/85 when I was trying to obtain discovery in the other cases, with copies of evidence of the Judge having returned my rebuttal letter to him and attachments, including the letters to the Magistrate in 1985, and counsel's ltr. to Judge Shaw of March 6, 1985 and my rebuttal of 3/9/85 etc., all of which were returned and filed with the Clerk in the form of a *Supplement* on June 30, 1986 with attachments. These documents and letter would have been important at that time to inform the Court of how the defense operated.The Judge also returned unopened that week his copies of my responses

and oppositions to defendants' filing. He wrote an order saying that his office did not accept the writings and attachments and returned my rebuttal letter of 6/19 and attach.

16. Copy of an Affidavit by Joanna P. Miller who is listed and identified on Exhibit list. The original was mailed directly to Shreveport. I have not been able to reach my other witness listed as a character witness who has known me for years. She travels every year and is probably out of the country.

17. Appellant's Brief filed on July 30, 1986 with attachments in CV84-2540 and reply brief and attachments filed on Sept. 10, '85. See No. 14. This includes some of my testimony.

(As shown in the exhibits lists and other matters which have been furnished this Court there are other important reasons why this case should go to trial and I should not be denied discovery.)

Please reteurn a copy of this list and extra set of attachments and letter enclosed for my files marked filed.

PS Important — Re motion for Reconsideration. In his affidavit Dr. Ally does not say he does not know Malcolm Bearb, Forest Bearb and Lois F. Bearb's son who lives in front of my residence and who wrote some very wild false statements to help his parents. See my rebuttal affidavit at No. 8 and questions Malcom also refused to answer. See attch. No. 7 on my opposition to summary judgment mailed on Sept. 1, 1986, in 1985, Malcolm affidavit was included amongst those examined by Dr. Ally, in other case Dr. Ally would have hesitated in listing him in report if he knew him, and in fact he did not know

him in the 1985 report either. No problems at all with them before his parents wanted property and he had asked me to buy my interest before my Father died. He disrupted proceedings on 2/5/86 when I deposed his Mother with beeper etc. Will address 10/22.

/s/ Lousella F. Benson
Louella F. Benson, pro se
6432 Montrose Street
Alexandria, Va. 22312
703 258 7595

I certify that a copy of the foregoing with attachments as stated and letter dated Oct. 20, 1986, are being sent to Charles Brandt, Esq. at 300 B Stewart St., Laffayette, La., and to Homer Ed Barousse, Esq. at P.O. Drawer 730, Crowley, La. 70526 on this the 21st day of Oct. 1986, via first class mail.

/s/ Louella F. Benson
Louella F. Benson

AFFIDAVIT

I, Louella F. Benson, a resident of Fairfax County, Virginia, residing at 6432 Montrose, Alexandria, Va. with my husband Joseph L. Benson, being duly sworn deposes and states:

In February of 1981, I voluntered for complete mental evaluations and a battery of psychological testings. The tests revealed that "on the intelligence test, Mrs. Benson functions at the Bright Average level. On the Comprehensive subtest (a test relating to judgment) and Digit Span (a test relating to concentration), she scores at a Superior level." Both the tests and full evaluations revealed that I am "not psychotic" — "No psychosis" and this was also revealed in the Rorshach test which the doctor said "gets at unconscious phenomena and defenses would appear." Although under stress at the time, the doctor said that my work on the performance test "scored within the Average range."

The psychiatrist said that depression was noted but that it was "situational depression", "not psychotic and not even neurotic depression" and no treatments were recommended. As to personality trait, the doctor found that she "is given to erudite and wordy explanations in her quest for doing things correctly", and stated he wished all professionals had this trait and that I have the potential to be a complex surgeon or an accountant.

On May 7, 1986, I mailed to the Clerk with a copy to the Judge and counsel, the attached letter so stating the above and stated "on my response and opposition to psychiatric examinations mailed May 6, I did not want to include the results of complete evaluations for several visits and results of psychological testings, (all of which volunteered for in 1981) to the Court only, without having permission to do so. It occurred to me today that I can put quotes on pertinent points

since Dr. Jonas Robitscher, lawyer, psychiatrist, and professor at Emory University said that "this is the kind of objective evidence that courts accept uncritically."

The statement by Dr. Robitscher was taken from The Powers of Pscyhiatry published in 1980. The doctors who evaluated me are here in this area, both highly regarded with years of experience and one is an associate professor of Psychiatry. I didn't submit these reports to the Court only because I did not obtain the Court's permission to submit them to the Court only and do not want to do anything wrong, but the fact is, I can prove I do not have the mental problems (schizophrenia paranoid is a psychosis) with this objective scientific evidence (Dr. Ally has ignored all required procedures; he admits he does not know plaintiff; he changed his story in 1986 in his affidavit; his affidavit reveals that he did not have anything from me; not even pleadings. The speech matter cannot be ignored!) Since I have seen E.J. Faul or his family and the doctor stated that in view of the results of the tests I could not have had those problems in retrospect, and added that "the tests get under the mask."

The tests also revealed that "she is capable of relationships with people", "she finds it difficult to express anger towards others."* This Plaintiff has other witnesses who have known her for a long time and who will verify what sort of person she is but plaintiff was waiting for the trial and was not aware of the "summary judgment". There is a geographic problem in reaching people and getting such evidence to the Court by Monday but she will try.)

*"Mrs. Benson is extremely self-critical." She is inclined to blame herself first". Additional results of scientific testings in 1981, by Drs. who know and tested this Plaintiff.

Plaintiff has totally been denied discovery in CV86-0489, she has never met or seen Dr. Ally, was never consulted and has never agreed to bring him into the picture for any reason, and in fact the Court has denied the defendants' motion for mental evaluation before they brought Dr. Ally and the "sworn staements" (including E.J. Faul's) in the other case and fined and warned the defendants about harassment, which order has been made available to this Court. Summary judgment; mental evaluation would lead to more personal, economic abuses. This Plaintiff has been completely denied discovery, the fraudulent scheme and conspiring which she can prove from the other cases have been completely ignored although pleaded as she expressly pleaded she was not placing her health in controversy. Plaintiff had to pay $20,000. for the real estate counsel said is worth $15,000. which they are trying to obtain.*

The objective scientific evidence mentioned are hard facts; (not untruths under oath or hypotheses) and the results were obtained by following all the required accepted clinical procedures by doctors who know this Plaintiff. Plaintiff objects to any summary judgment and or dismissal with prejudice or dismissal, but prays that the Court will allow due process.

**Since they sued this plaintiff she has had to spend at least $50,000. She had to pay more for the improvements ($2,000. for barn an expert said should be destroyed. She has at least $150,000 invested there which is being flooded since 1983 and devaluated. See engineering report by S.J. Langlinais Assoc. problems, obstructions, chemicals.

reject any unconstitutional matters and allow trial on all issues pleaded which are in dispute.

/s/ Louella F. Benson
Louella F. Benson

COMMONWEALTH OF VIRGINIA,
COUNTY OF FAIRFAX, TO WIT:

Sworn and Subscribed before me this 18th day of October, 1986.

/s/ (illegible)
Notary Public

My commission expires July10,1990

6432 Montrose Street
Alexandria, Va. 22312
June 16,1986

The Honorable Donald E. Walter, Judge
U.S.District Court
P.O. Box 3107
Monroe, Lousiana 71210

Re: Louella F. Benson vs. Glenn A. Ally, Ph.D. et al
#CA 86-0489 L

Dear Judge Walter:

The copies of motions forwarded to you by Charles Brandt on June 12, 1986 and which he filed with the Clerk seeking an extension of time and again requesting plaintiff be made to file a more definite statement, coupled with responses to plaintiff's motion for reconsideration of mental examination and to compel defendants to answer interrogatories which have been overdue for several weeks are all designed for one purpose. That is, to delay in efforts to again try to deny this plaintiff due process by holding off until after they have "E.J. Faul's psychiatrist" examine this plaintiff to have their "long-distance" label stick and they would never have to answer for their unconscionable actions. The Magistrate is due to rule on Plaintiff's Motion to Compel answers to interrogatories on July 3, 1986, and their psychiatric evaluationis set for July 8, 1986. If they could obtain an extension of time to answer interrogatories and get the Court to rush into confirming the ruling on plaintiff's motion for a reconsideration on the mental examination, they would succeed in totally denying due process.

CV 84-2541, Louella F. Benson vs. Lois F. Bearb et al, was extended from March to the week of Aug. 25, 1986. This

is the case where they are trying to obtain plaintiff's property and Lois F. Bearb et al represented that she was insane without any evaluations and for their gain. By obtaining another delay for a "More Definite Statement" and an extension of 15 days "from the date in which plaintiff complies with this Court's order to properly amend her complaint", and a denial on plaintiff's motion to compel answers to interrogatories, they would conceal such pertinent answers as who was having this plaintiff "treated" for conditions which she can prove she does not and did not have, and that no doctors who fully evaluated her after she volunteered for testings and evaluations, recommended any treatments for any thing, as well as withholding answers on the other pertinent questions forwarded last week.

On Aug. 25, 1986, Lois F. Bearb, et al could mis-represent to the Court that plaintiff's provable complaints "are all in-her mind" as she so mis-represented to the Court in CV84-2541 and CV84-2540 for months and months to delay and deny due process, and avoid and conceal plaintiff's valid provable complaints and evidence. After the March delay, Bearb again altered the drainages to further cover-up her obvious actions.

Plaintiff will answer the specific motions and misleading responses specifically soon, but wanted to mail this letter promptly. She feels that Counsel is taking advantage of the fact that the Court has to share the workload. For example the Judge who is ruling on one issue may not be aware of why he really wants an extension and which would be helpful to defendants to allow time to confirm their "long-distance label" which they sought in CV84-2541 and 2540 to accomplish ****

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION

LOUELLA F. BENSON
VERSUS CIVIL ACTION NUMBER 84-2540
FORESET BEARB SECTION "O"

JUDGMENT OF DISMISSAL

This matter came to be considered after the filing of the motion for summary judgment on behalf of Forest Bearb and the Estate of Forest Bearb and, the Court considering said motion and, for the reasons stated in this Court's ruling of April 3, 1986, the motion for summary judgment in favor of Forest Bearb and the Estate of Forest Beard is granted, and, accordingly,

IT IS ORDERED, ADJUDGED AND DECREED that the motion for summary judgment is granted and Forest Bearb and the Estate of Forest Beard are dismissed from this litigation with full prejudice to the rights of the plaintiff, Louella F. Benson, at her costs.

JUDGMENT SIGNED in Chambers at Opelousas, Louisiana, on this 15th day of May, 1986.

/s/ John M. Shaw
JOHN M. SHAW
UNITED STATES DISTRICT
JUDGE

Judgement Entered May 16, 1986
By: Claudette Hendrick
Copy To Benson
Brandt

U.S. DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
FILED
MAY 151986
ROBERT H. SHEMWELL, CLERK
BY MB
DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION

LOUELLA F. BENSON
VS. CIVIL ACTION NUMBER 84-2540
FOREST BEARB SECTION O

RULING

Now before the Court is a motion for summary judgment and motion for judgment on the pleadings filed by the plaintiff. Having granted the defendants' motion for summary judgment on May 7, 1986 this motion is now moot and therefore is DENIED.

Opelousas, Louisiana, May 8, 1986.

/s/ John M. Shaw
JOHN M. SHAW
UNITED STATES DISTRICT
JUDGE

COPY SENT
DATE 5-9-86
BY: Rvw
TO: Benson
Brandt

U.S. DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
FILED
MAY 9 - 1986
ROBERT H. SHEMWELL, CLERK
BY Rvw
DEPUTY

6432 Montrosa St.
Alexandria, Va. 22312

May 5, 1987

Honorable Gilbert F. Ganucheau, Clerk
United States Court of Appeals
For the Fifth Circuit
600 Carp.
New Orleans, La. 70130

Attn: Mr. Barry W. Stiebing
Chief Judicial Support Division

Re: Louella F. Benson vs.
Glenn A. Ally, et al Nos. 86-4797 and 86-4798 and related cases 86-4355 and 86-4738 etc.

Dear Sir:

It occurred to me since counsels did not certify or state underoath the matters in question etc which I have not received, that I should submit an affidavit with the specifics which is enclosed with sincere prayer that it be

entered in the record. I enclose the original affidavit with 3 copies.

Respectfully submitted,

/s/
Louella F. Benson, prose
703 256 7595

Encl.

cc: Charles Brandt, Esq. with attachment
Homer Ed Barousse, Esq. with attachment

I certify that a copy of this letter and affidavit described of May 4, 1987, are being forwarded via first class prepaid postage on this the 4th day of May 1987, to Charles Brandt, Esq. at 300 B Stewart St. Lafayette, La. 70501, and to Homer Ed Barousse, Esq., Edwards Bldg. P.O. Box 730, Crowley, La. 70526

Louella F. Benson

/s/

COUNTY OF FAIRFAX
STATE OF VIRGINIA

Re: 86-4797 and 86-4798 and related cases 86-4355 and 86-4738

I, Louella F. Benson, states the following underoath:

I have never received the "Suggested Findings of Fact & Law" nor the attachments to same, nor cover letters filed by Counsel Brandt in 84-2541 (86-4798) on 3/24/86, and I have requested same* since Jan. 1987 when I first learned of these and other denials of procedual due process rights when Counsel Brandt filed a supplement of facts and law in 84-2541, and which clued me. Then I proceeded to try to obtain those documents which had been filed in both cases prior to rulings very adverse to me and which affected all cases. Only in 1987 after I contacted counsel and requested documents denied in 1986 and which he had filed in March 1986 prior to summary judgments with full prejudice to my rights and at my costs, prior to adverse rulings in 84-2541, 86-4798, and prior to summary judgment with full prejudice etc. and default judgment in CV86-4089 (86-4797 and 86-4798), he furnished me, in Jan. 1987 with 18 unnumbered pages, one blank page, which document is entitled "Pretrial Memorandum of Fact and Law" but it was unsigned and no certification showing copy to anyone was attached, nor were any of the attachments counsel refers to as being attached in the memo. Since the docket sheet shows in both cases that counsel's filings of 3/17/86 were refused by the Court because they were unsigned, I can only assume that these were the op-

position's filings of 3/17/86, and further the rules require that he copy me with everything, the signed and the unsigned with copies, and I have a right to receiving what he signed, and all documents when he makes them available to the Court, not long after they obtain unconscionable judgments against me without even a hearing, not to mention the available facts ignored etc. Note in his letter of April 23, 1987, counsel does not provide any certifications, not for 1986, nor at any time in his answer to the Court's letter of 4/13/87, nor does he offer proof of service as requested, nor does he state when I was provided with what. There were serious misrepresentations made to the Court in the unsigned above mentioned filings and it would have been very important for me to repond prior to any rulings and to be copied with any attachments, including anything I wrote, in view of their misrepresenting and distorting what I wrote and all secretly because they knew that I could prove with exhibits which I had listed for trial in both cases 86-4798, that they were infact making serious misrepresentations and which bear on all cases.

As to 86-4355, counsel furnished me with 3 page "Pretrial memorandum" in 1987, after I learned of it in 1987 as explained, and without any cover letters. A certification of service was typed but the date, and counsel's signature are missing, not legible to stand up in any court. It would have been crucial for me to have a chance to rebut his misrepresentations prior to rulings, not after summary judgment etc. Counsel wrote that Dep. Bearb's affidavit was discarded by him because it did not contain allegations of fact. Dep. Bearb was asked certain questions underoath as to the names of anyone who knew anything at all about the false forgery and he refused to answer. I have never committed forgery, nor any crimes, and I have never told anyone that I committed forgery and it would

have been important to point out other crucial rebuttals to the Court re all this prior to any rulings. Counsel failed to copy me with the "Suggested Findings of Fact & Law" filed on 3/24/86. Note that what he furnished in 1987 is "Pre-trial memorandum".

Counsels did not list their attachments in support of summary judgments. My letters to them in 1986 to try to clearify this were ingnored.

At no time did I receive any affidavits by E.J. Faul or anyone else in support of E.J. Faul's motion for my mental evaluation. Counsel states he has no affidavits by E.J. Faul that were filed with the Court in support of his request for a mental examination of Mrs. Benson. He does not say whether or not any were filed by E.J. Faul or anyone else and which were requested. Counsel does not answer as to if any such information was communicated to the Judge verbally – he counsel refused to answer interrogatories asking if he had communicated any thing to the Judge or if he knew the Judge etc. and defendants refused to answer any interrogatories. In related cases counsel admitted to ringing the Magistrate on the date of ruling re their motion for mental evaluation to inform of affidavits. My attorney and myself had been told there were none.

Counsels did not respond to my motions to inform the Court nor did they answer as to whether "or not they had answered these and my motions to evaluate Forest Bearb, Lois F. Bearb, Leslie Faul and E.J. Faul, which to my knowledge they did not respond to. Only applies to counsel Brandt other than my motions to inform the Court.

Counsel Barousse has yet to copy me with the letter he filed on 3/25/86, the date set for trial, and which was re-

quested of him. If he filed motion to file motion for summary judgment at th at time he has yet to copy me. I had not been able to obtain copy of Mr. Barousse's reply brief in case against Dep. Bearb before months afterwards and after the court loaned me a copy and I had made it known to him that I did not receive a reply brief from him. In case against Ally et al, he has yet to copy me with what he actually filed and I have requested same, and he only informed me of such filings after I asked in writing. No response to inquiry as to if any thing more was filed by the sheriffs with facts and law other than that which I informed I had received.

Mr. Brandt had later written that he had not received my brief in the Ally at al appeals. After I wrote him and stated that there had been separate mailings in view of the snow, the exhibits etc. and if he would inform me of which ones he had not received that I would furnish him with additional copy, he never responded. Nothing was returned to me and the Post Office Department still works pretty well. Mr. Barousse has yet to certify-sign certification as to interested parties to my knowledge.

(by Mr. Brandt and defendants)

In view of their secret misrepresentations to the Court prior to their victories etc. and at my cost and denials of rights, including procedural due process rights, on April 23, 1987 via overnight service I forwarded to counsels listings of other exhibits with those attachments mentioned which they did not have which it* would be necessary for me to enter to show the Court what transpired and how they have operated since they sued me.

*some documents which Mr. Brandt had were again made available to him with mailng of 4/23/87.

(Mr. Barousse's copies was sent first class mail and was probably postmarked the next day.) On 4/24/87 counsel Brandt wrote objecting to just about everything which means that they want to continue their secret processes to cover up secret processes- a "one-way street", do not let her prove what transpired, it would affect all cases. He does not even acknowledge the documents I forwarded to him on 4/23/87 with exhibit list which shows that he is still making use of the false mental stuff to deny due process — who will believe her! On going tortious approach. The documents would have to be material and relevant in my opinion and some of them most definitely are.

In some cases where I listed more documents to support my positions, counsel objects because he says "he has not viewed these documents". The fact is he attached some of those documents to the deposition he took from me in Jan. 1986, and distortions have already been made to the Court in using some of these documents and without copying me

Counsel objects to my entering letters to and from him to show the Court what happened; he denied viewing letters which his client wrote (Leslie Faul executor) on 12/14/83 which admits to the agreements of Oct. 12 and supplement of Nov. 21, 1983 and which he attached to my deposition of Jan. 1986, because it causes serious problems in view of their secret misrepresentations to the Court prior to their victories and in their "supplement" filed in Jan. of 1987 in CV84-2541 after their victories. In fact some of the documents counsel claims not to have viewed he has viewed more than once; e.g., the "No Bids", the letter by me to executor and all the heirs of 4/30/82 stipulating full use of the road as it was "then and letter from Leslie Faul of 3/26/82 also to all the heirs with pertinent matters explained in my motions to inform the Court

and with copies to counsels with attachments, and further these three documents had been listed as exhibits with exhibit lists in early 1986 prior to their victories as shown in exhibit lists in record which was signed by counsel and filed. Counsel viewed these three documents and the other documents listed on exhibit list already in record at the meeting he and I had for viewing and exchanging documents on Feb. 17, 1986, and he had an opportunity to copy whatever he wanted. Pictures, additional pictures forwarded to counsel Brandt on July 1, 1986 are not acknowledged (nor were additional copies requested as I had suggested if not received) but objected to as irrelevant immaterial and hearsay. Additional pictures, also showing the problems created by his clients and taken recently enclosed under separate cover on the day after or 4/25/ 87 have not yet been acknowledged and they were also forwarded via overnight service as were the enclosures of 4/24/ 87 with other documents I will enter at trial including re toxic Spike 80W.

I challege counsels to send affidavits with proof that I have been served with the document still denied and to address and deny the crucial matters under oath.

Counsel Barousse may not have all of the documents listed in CV84-2540 and 2541 because he entered the case later but I offered to supply him with needed documents at pretrial conference in March of 1986, after he entered the case. Mr. Brandt even shows the answers to interrogatories by his clients, the excerpts which I listed from same and from deposition of Lois F. Bearb in these matters as immaterial and irrelevant. I must note my ongoing exceptions to these denials of past and on-going due process, including procedual due process rights. (forwarded

to Clerk Fifth Circuit with cover letter via overnight service on 5/4/87.

Louella F. Benson, pro se
6432 Montrose St.
Alexandria, Va. 22312

STATE OF VIRGINIA:
COUNTY OF FAIRFAX:

Before me, the undersigned, a Notary Public duly commissioned and qualified in and for the State and County aforesaid, therein residing, personally came and appeared: Louella Faul Benson, who upon being duly sworn, deposed; that she is the Plaintiff in the above titled and captioned cases, that the statements in the aforegoing affidavit are true and correct to the best of her knowledge.

SWORN TO AND SUBSCRIBED BEFORE ME
this 4 day of May 1987.

/s/
Louella F. Benson

/s/
Notary Public
My Commission expires Oct. 1987

file 18379fn